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ABSTRACT

In the spring of 2001, illegal drug use had risen by 40% among teens in the town of Springdale, Utopia. School administrators and the Springdale Police Department decided to implement a crackdown on teen drug use in all high schools in Springdale. A high school principal received a tip on a hotline that Jamie Davidson, a senior, had been seen using drugs in the school parking lot. This is the beginning of the case against Jamie, which serves as the basis for the mock trial conducted in this learning packet. A mock trial is not a speech or debate tournament, or a dramatic presentation; although elements of all three may be utilized. The packet contains two sections: (1) "Statement of the Case"; and (2) "Final Pretrial Order" (Stipulations; Counts; Legal Authority; Witnesses Prosecution: Officer Taylor Carter, Chris Rafter, Sam Railey; Defense: Jamie Davidson, Ashley Deselle, Billy Bradley; Exhibits (State of Utopia Police Report; Laboratory Report of Sam Railey, Prosecution; Expert Witness Report of Billy Bradley, Defense)). Attached to the mock trial materials are the rules of competition for the Oklahoma high school mock trail program. The introduction states the program's primary goal is to educate the student participants. The rules of competition are divided into eight parts: (1) eligibility; (2) the case; (3) trial rounds; (4) the trial; (5) judging; (6) scoring; (7) advancement; and (8) recognition. Contains a glossary and activities. (BT)

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ED 472 110

2002-2003
OKLAHOMA HIGH SCHOOL
MOCK TRIAL PROGRAM

STATE OF UTOPIA

V.

JAMIE DAVIDSON

SO 034 507

OBF

Prepared by
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IN THE DISTRICT COURT OF SPRINGDALE COUNTY
STATE OF UTOPIA

State of Utopia, Prosecution	)	
v.	)	Case No. CF 2002-001
Jamie Davidson, Defendant	)	

STATEMENT OF THE CASE

In the spring of 2001, illegal drug use had risen among teens 40 percent in the town of Springdale, Utopia. School administrators and the Springdale Police Department decided to implement a crackdown on teen drug use in all Springdale high schools. Part of the crackdown consisted of establishing an anonymous tip hotline for the reporting of teen drug use. Information gathered from tips would be followed up on and used for searches and the possible prosecution of drug users. In all area high schools the program was announced and the students were notified that searches could be conducted on school property based on anonymous tips received from the hotline. Additionally, signs were posted in the student parking lots stating "Any person driving or parking any vehicle on school property is deemed to consent to a complete random search of the vehicle for any reason."

At Springdale North High School, Principal Lynn Sanderson, received information from the tip hotline that one of the seniors in the school had been identified as using drugs in the parking lot of the school. This teen was identified as Jamie Davidson, who had allegedly stored drugs in her/his car and parked in the Senior Parking Lot during school. Principal Sanderson found this tip disconcerting, especially given that Jamie Davidson had the reputation of being an exceptional student at Springdale North who had never had any prior disciplinary problems. Jamie was involved in several school activities and volunteered several hours each weekend at the Springdale Hospital. However, given the school's new stricter policy on drugs, Principal Sanderson decided to notify the police.

On April 30, 2001, Principal Sanderson called the police based on the anonymous tip. The investigating officer, Taylor Carter, searched the car and discovered a sandwich baggie loose in the car with nineteen (19) grams of methamphetamine (a.k.a. "Crystal-Meth"). The Crystal Meth was wrapped in foil and was inside the baggie. The Springdale Police Lab conducted tests on a hair follicle identified as Jamie's that was barely stuck inside the foil containing the Crystal Meth. The Police Lab also tested the sandwich baggie and found a fingerprint which belongs to another Springdale North High School student, Chris Rafter.

Jamie and Chris Rafter car pooled to school each day in Jamie's car. They were neighbors and had been close friends since childhood but typically ran in different social circles. Because both teens were active in sports and/or other extracurricular activities, Jamie had allowed Chris to keep his/her gym bag and other items in the back seat of Jamie's car and had provided Chris with a key to the car, so that Chris could get in the car throughout the day. In the spring of 2001, Jamie and Chris were 18 years old and were scheduled to be graduating Springdale North High School in May. Approximately two weeks prior to the anonymous tip, witnesses have said that Jamie and Chris got into a verbal fight before the Rolling Maggots concert. Jamie had taken Terry Campbell to the concert. The Rolling Maggots are Chris' favorite band and Chris was upset Jamie didn't take him/her to the concert. Despite the alleged fight, the two teens continued to ride to school together.

When Officer Carter found the baggie during the search, Jamie exclaimed, "Oh, No!" then proceeded to tell Officer Carter that the baggie must belong to Chris. Officer Carter then interrogated both teens, neither of which appeared to be under the influence of any drugs at the time. Upon conducting a pat-down search of both teens, Officer Carter found approximately $300 in cash in Jamie's pant pocket. When asked about their prior drug use, Chris admitted that s/he had been in trouble with the law a year earlier when she/he was picked-up with two marijuana cigarettes. Chris had pleaded guilty in juvenile court and received six months' probation. Jamie admitted that s/he had tried Crystal Meth once before but hadn't ever used it again.

Jamie is now on trial and being prosecuted by the State of Utopia for possession of nineteen (19) grams of Crystal Meth which carries a sentence of not less than two (2) but not more than ten (10) years in prison.

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IN THE DISTRICT COURT OF SPRINGDALE COUNTY
STATE OF UTOPIA

State of Utopia,)
Prosecution)
)
v.) Case No. CF 2002-001
)
Jamie Davidson,)
Defendant)

FINAL PRETRIAL ORDER

I. Stipulations

A. All parties are properly before the Court. There are no other necessary parties.
B. The Court has jurisdiction over the parties and subject matter.
C. There is no dispute that the search of Jamie Davidson's car was properly executed by the Springdale Police Department on the grounds of Springdale North High School.
D. The State of Utopia, in which Springdale is located, enacted a statute empowering school boards to search students and/or involve local police. Therefore, the search of Jamie Davidson's car did not violate her/his Fourth Amendment constitutional rights that the government may not intrude on the personal privacy of its citizens without a warrant or compelling circumstances.
E. Principal Lynn Sanderson is unable to testify so the investigating officer, Taylor Carter will testify to the facts surrounding the search. Taylor Carter's testimony will not be considered hearsay since the declarant (Principal Sanderson) is unavailable to testify and the Court will grant a clear exception to hearsay under Rule 804 of Evidence.
F. There is no dispute that the car was owned by Jamie Davidson.
G. There were no problems associated with the transportation of the evidence from the scene, to and from storage, to and from the Spingdale Police Department Crime Testing Laboratory, to and from the independent laboratory and to and from court.
H. The only exhibits that will be admitted are the expert witness report(s) and a copy of the police report.
I. Copies of all exhibits may be entered into evidence in lieu of the originals. No exhibits may be altered or enlarged in any way.
J. No outside research may be conducted on the Acetone and Folic Acid test mentioned in the expert witness exhibits.

II. Counts

A. Count #1
Count as filed: Possession of a Controlled Dangerous Substance, in violation of Title 63 Utopia. Section 2-402. Date of Offense: 4/30/2001.

III. Legal Authority

Statute #1: Title 63 Utopia Statutes Section 2-402

A. It shall be unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this act.

B. Any person who violates this section with respect to:
   1. Methamphetamine, is guilty of a felony punishable by imprisonment for not less than two (2) years or more than ten (10) years. A second or subsequent violation of this section, is a felony punishable by imprisonment for not less than four (4) years or more than twenty (20) years.

C. 1. For a first offense, a term of imprisonment, or by the imposition of a fine, or by both, not exceeding twice that authorized by the appropriate provision of this section. In addition, the person shall serve a minimum of fifty percent (50%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence; or
   2. For a second or subsequent offense, a term of imprisonment not exceeding three times that authorized by the appropriate provision of this section and the person shall serve a minimum of ninety percent (90%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence.

Statute #2: Title 63 Utopia Statutes Section 2-407

A. The minimum weight for being arrested and/or prosecuted for possession of a controlled dangerous substance (marijuana, cocaine, methamphetamine, etc.) is 1 gram to a maximum weight of 19.99 grams.
B. The minimum weight for being arrested and/or prosecuted for possession with intent to distribute and/or distribution of a controlled dangerous substance is 20.0 grams to a maximum weight of 49.99 grams.
C. The minimum weight for being arrested and/or prosecuted for manufacturing of a controlled dangerous substance is 50.0 grams.

IV. Witnesses
   A. Prosecution
      1. Officer Taylor Carter
      2. Chris Rafter
      3. Sam Railey

   B. Defense
      1. Jamie Davidson
      2. Ashley Deselle
      3. Billy Bradley

V. Exhibits
   A. Police Report by Officer Taylor Carter
   B. Laboratory Report of Sam Railey (Prosecution)
   C. Expert witness report of Billy Bradley (Defense)

Dated: October 21, 2002

/s/ Judge Bana Braden
District Court Judge

STATEMENT OF OFFICER TAYLOR CARTER
(Prosecution Witness: Investigating Officer)

My name is Taylor Carter. I am forty-six (46) years old and have been working on the Springdale police force for almost twenty years now. In my work experience, I have had the opportunity to participate in all areas of enforcement from patrolling parking lots to investigating murder crime scenes. Recently, I have been assigned to head up the Drug and Narcotics Task Force for Springdale and am the senior officer in charge of drug-related offenses. In general, I really enjoy my job. A major drawback, however, is when I see potentially good people go wrong and get into trouble.

Due to an apparent increase in illegal drug use by teens in Springdale, Principal Lynn Sanderson asked a couple other officers and myself to come to Springdale North High School about a month ago to present an all-school assembly on the adverse effects of drugs, both physical and legal. Principal Sanderson is a good friend. We go to the same church and our kids grew up playing in little league together. Since I have two grown children of my own, I was more than willing to participate in the information assembly. We discussed the effects of various drugs with the students and talked at length about the new "Anonymous Tip Hotline" that was being implemented in Springdale just for the purpose of reporting suspected teen drug use. At the end of our presentation, Principal Sanderson announced to the students that Springdale North would have a "no tolerance" drug policy from that day forth and that every suggestion or report of drug use would be taken seriously and fully investigated. Principal Sanderson announced that signs bearing the hotline's phone number and stating the terms of the "no tolerance" drug policy would be posted throughout the school and the school's parking lots.

On April 30, 2001, Principal Sanderson called me and stated that he had received an anonymous tip about a student who may have been seen using drugs in the school parking lot. I wouldn't usually go out on a routine investigation like that, but we happened to be rather short-handed that day and, as I stated previously, Principal Sanderson is my friend. Over the phone, Principal Sanderson told me that he was pretty sure that this tip was a false alarm because the accused teen was an exceptional student and an "all-around good kid," however, the policy was "no tolerance" and I needed to come out and investigate.

When I arrived at the school, Principal Sanderson identified the student as Jamie Davidson. I am not familiar with that name, so it's safe to say that I have never known Jamie to be in any trouble. Anyway, Principal Sanderson got Jamie out of class and s/he and I proceeded out to the parking lot where s/he was parked. Jamie seemed unusually agitated that day, as if s/he were anxious about what I might find in the car. Jamie's car, a gold four-door Ford Taurus, was extremely messy. There were books, papers, gym clothes and bags, hair brushes, socks, shoes and other miscellaneous items scattered throughout the front and back seats. Jamie explained that s/he had car pooled with Chris Rafter. Captain Rafter, Chris's father, is on the police force with me. Although I don't really know Chris, his/her father had told

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me that s/he has had some run-ins with the law in the past, but that s/he has miraculously turned his/her life around during this past year. Captain Rafter is awfully proud of Chris and how much progress s/he has made.

Jamie stated that both Jamie and Chris kept all of their stuff in Jamie's car for their school activities. I was just about to end my search when I saw, in the back seat, a small plastic baggie stuffed barely under the seat on the passenger's side. The baggie contained a foil ball with a substance inside that I immediately recognized and suspected to be methamphetamine (or "Crystal-Meth," for short). As soon as I picked up the baggie, Jamie exclaimed "Oh, No!" Jamie immediately became frantic and said s/he had never seen the baggie before and that it must be Chris Rafter's.

With Jamie's statements, Principal Sanderson got Chris Rafter out of class as well. I asked both teens about the baggie, but neither claimed ownership of it or even acknowledged that they knew the baggie was in the car. During this interrogation, I noted that neither teen appeared to be under the influence, but Jamie seemed much more agitated.

Upon interrogation, Chris told me that s/he had been arrested as a minor for possession of two marijuana cigarettes, but that s/he had been placed on probation and served his/her time. Chris admitted that s/he has used drugs once or twice since his/her arrest but that s/he does not use Crystal Meth. Jamie stated that s/he has tried Crystal Meth a few years ago but that the effects of the drug had scared him/her so he/she had never used it again.

To complete my investigation, I conducted a simple pat-down search of each teen. All I found in Chris' pockets were some crib notes and some change. When I searched Jamie, I found $314.25 in his/her pockets. While this, by itself, is not illegal, given the circumstances and his/her age, the money gave me reason to think that Jamie was involved in buying, and possibly selling drugs.

I took the baggie back to the station and had our Springdale Police Lab inspect the substance. The Lab confirmed my suspicions that the baggie from Jamie's car did, in fact, contain Crystal Meth. There were about nineteen grams recovered from Jamie's car. Jamie Davidson was arrested soon thereafter.

Date: July 3, 2001

/s/ Taylor Carter

STATEMENT OF CHRIS RAFTER
(Prosecution Witness: Friend of Defendant)

My name is Chris Rafter. I am 18 years old. I am a senior at Springdale North High School in Springdale, Utopia, and should graduate in May. I have lived next door to Jamie Davidson since his/her family moved to Springdale in 1989. I was playing with my dog Maggie in our yard. Jamie and I started talking. We have been friends ever since.

Jamie is one of my friends, but we each do our own thing. Jamie is into things that just don't interest me. For instance, I had rather just hang out with friends, listen to music, and relax on the weekends, but not Jamie. Jamie is too involved. Jamie is in a lot of clubs at school, and is president of both the Future Business Leaders of America, and the National Honor Society, so Jamie spends most weekends working at club activities. Jamie also volunteers at Springdale Regional Hospital for a couple of hours each weekend. Because Jamie's so busy, we don't really hang out with the same people. It's okay because we still get to see each other. Every morning we ride to school together in Jamie's car. It's usually a mess because we leave our trash after we've stopped to get breakfast on the way to school, or grabbed something to eat after practice. We both play sports at Springdale North High School, and I usually leave my things in the backseat of Jamie's car during school. The Senior parking lot is next to the gym, so it's easier to leave my gym bag and things in Jamie's car than it is to carry my stuff to my locker. Jamie even gave me a key so I can get into the car whenever I need to get anything.

About four months ago, Jamie and I had an argument about a concert, but that was nothing. I had been interested in going to see the Rolling Maggots in concert, but did not have the $100.00 per seat to spend on the concert. Jamie knows that I love the Rolling Maggots, but s/he decided to take Terry instead. It was a really un-cool thing to do to a friend. The next day, Jamie called me to talk about it. We decided it was stupid to fight over something that trivial and that a concert should not come between us. After all, Jamie and I have been friends since we were five. We still rode to school together everyday, and never stopped speaking to each other over it. Besides, I got into some trouble last year, and Jamie was a good friend through it all.

About a year ago, I got arrested. I was smoking pot, you know, marijuana. I wanted to be cool and thought I was cool because some other kids were doing it. Boy, was I ever wrong. I was at a party one night when the cops showed up. I had two joints in my pocket, ended up getting arrested, and hauled to jail. I had to call my folks, and explain it to them. Then, I had to go to juvenile court. I pled guilty. The judge gave me six month's probation and told me to get my act together. I have gotten my act together since then. I've stayed away from that crowd, and I haven't done any drugs or been in trouble with the law since I was arrested. I've never seen crystal meth, and I sure wouldn't touch the stuff after getting into all that trouble.

My father is a policeman and serves with Officer Taylor Carter, so I know what can happen to you if you get in trouble with the law for drug use.

Dated: July 2, 2001

/s/ Chris Rafter

-2-

STATEMENT OF SAM RAILEY
(Prosecution: Forensics Expert)

My name is Sam Railey. I am the Chief Technician for the Springdale Police Department Criminal Testing Laboratory. I received my Bachelors of Science in Chemistry in 1975 from the University of Utopia and a Ph.D. in Forensic Science from the University of Utopia in 1980. Since 1980 I have been employed with the Springdale Police Department in the Criminal Testing Laboratory.

Beyond my formal education, I have taken continuing education classes in criminology, forensics and other newly developed criminology testing techniques. Additionally, I am licensed by the American Academy of Forensic Sciences which is a board that grants credentials to examiners such as myself. I have also published several articles in industry trade journals such as Forensics Today and in 1998 co-authored the Forensic Investigators Handbook.

The evidence recovered from the Defendant's car was brought to me for forensic testing. The evidence collected included a baggie with some foil, a hairbrush and some miscellaneous items. According the instructions sent to the lab by the Springdale Police, my first task was to determine what type of substance was contained in the foil. By using standard chemical tests with acetone and folic acid, I determined that the substance was methamphetamine also known as Crystal Meth. The weight of the substance without packaging was 19.1 grams.

Prior to manipulating the evidence in the baggie I determined that the baggie had several fingerprints on it which needed to be tested. Taking great care to not disturb or smudge the fingerprints on the baggie, I tested the fingerprints by applying magnetic fingerprint powder then examined the fingerprints under a forensic light. I ended up with one full fingerprint and two partial fingerprints. I was provided the fingerprints of the Defendant, Jamie Davidson, and his/her friend Chris Rafter. I determined with forty percent (40%) certainty that the one full fingerprint belongs to Chris Rafter. The low percentage of certainty is due to an imperfection inherent in the fingerprint found on the baggie. We had Chris Rafter's fingerprints on file. It is inconclusive as to the identity of the owners of the partial fingerprints. I have used magnetic fingerprint powder for more than 15 years and it has given me very reliable results.

In addition to the fingerprint, there was a hair loose in the baggie in the first fold of the foil. I removed the hair from the baggie for testing. Luckily, the root of the hair was still intact so that I could perform a DNA analysis. I used a polymerase chain reaction (PCR) test named the AmpliType HLS DQ kit. This kit has been in use since 1985 and can detect 28 genotypes. The DNA analysis revealed that the hair belongs to the Defendant, Jamie Davidson. I also tested the hair for usage of drugs and foreign materials such as dirt or lice. The analysis of the hair revealed that methamphetamine had been used recently.

The presence of the hair is strong evidence that the drugs were the Defendant's because the hair was found stuck in the foil that the Crystal Meth was rolled in. The positioning of the hair along with it being the Defendant's hair leads me to conclude that the Defendant was the one in possession of the drugs. Finding Chris Rafter's fingerprint on the baggie is explained by the fact that the two kids shared the car and s/he could have accidentally touched the baggie when shifting his/her belongings.

Dated: October 25, 2002

/s/ Sam Railey
Chief Technician
Springdale Police Department
Criminal Testing Laboratory

STATEMENT OF JAMIE DAVIDSON
(Defense Witness: Defendant)

My name is Jamie Davidson. I am 18 years old. I am currently being charged with felony possession of Crystal Meth. I am innocent and not guilty of these charges. I believe that my former best friend Chris Rafter framed me. Chris Rafter and I have been friends since grade school. Chris and I have generally always gotten along. However, as our senior year of high school progressed, Chris has grown more and more jealous of me. We had experienced several problems our senior year that severely affected our friendship. Regardless of our problems, I still let Chris car pool with me to school everyday until my arrest in April, 2001.

It all started in January of 2001. Chris and I had applied for the same colleges and I had been accepted at several of the schools. Chris had not. In fact, s/he had received multiple rejection letters. Additionally, Chris had been hanging with a different crowd. We had actually started hanging out with those people a couple of years ago but I didn't really like them much because they did drugs pretty heavily. I convinced Chris back then not to hang out with them because they were bad news. I realized this when they convinced me to try Crystal Meth. I had a bad experience with the stuff and have never done anything like that again. But the summer before our senior year, I went to a summer camp to be a counselor and Chris stayed in town. During that summer, Chris was at a party one night when the cops showed up. Chris got busted with two marijuana cigarettes. Chris was lucky and received probation for six months.
The biggest fight Chris and I ever had happened just two weeks prior to my arrest. Chris was upset because I took Terry to see the Rolling Maggots in concert. The argument was pretty bad. Chris was upset because the Rolling Maggots are Chris' favorite band. Chris seemed okay with it until the day of the concert. I guess s/he got mad at the thought of Terry and I going to the concert together. Chris told me that day that s/he was going to get me back for what s/he felt that I had done to him/her.

Chris car pooled with me in my car to school everyday and I had given Chris a key to my car because I let him/her keep his/her stuff in my car. I didn't clean out my car often. I really didn't ever go through Chris' belongings in my car, so I just assumed it was his/her after school stuff and his/her schoolbooks. Chris really used my car as his/her locker. I know Chris had been assigned a locker at school, but I never saw him/her actually use it. I had never seen drugs in my car nor would I have allowed them.

I don't know how the drugs got in my car and how my hair got on those drugs. That is why I said "Oh, No!" when the officer found the drugs in my car. I didn't even know that they were in the car. I brush my hair in the car every morning and after lunch so I think that is how my hair got on the drugs. I don't know for sure because I did not know the drugs were there. As for the money the police found on me, after graduation the senior class had planned a trip to Cancun. Our money was to be turned in by the end of that day. I had saved up the money from my after school job at Target and my summer job as a camp counselor. The morning of my arrest I had gone by the bank to pull out the money for the deposit on the trip from my savings account. The deposit for the trip was around $300.00.
Although, I tried drugs a few years ago; I do not currently use or sell drugs of any kind. I have studied hard for my good grades. I have volunteered at the hospital each weekend. I am on

the soccer and basketball teams. I got into every college I applied for with the exception of two, and I worked hard to get several scholarships to help pay for school. This event has ruined my life. Why did this happen? I don't know. Maybe Chris was jealous. I have always been there for Chris and it amazes me that s/he would have hung me out to dry. His/her fingerprints were on those drugs, not mine.

Dated: May 3, 2001

/s/ Jamie Davidson

STATEMENT FOR ASHLEY DESELLE
(Defense Witness: Friend of Defendant)

My name is Ashley Deselle and I am a seventeen year old junior at Springdale North High School. I am on the soccer team with both Jamie Davidson and Chris Rafter. I have known both of them for about 5 years. Even though I am not in Jamie's and Chris's class at school, I typically hang out with all the seniors because they are cooler than the people in my class. I would say that I know both Jamie and Chris pretty well. We often hang out and party together on the weekends.

Chris is extremely smart. S/he does well in school without even trying. But even with his/her good grades, Chris has a little bit of a reputation. My Mom calls Chris a "trouble-maker," but I don't really agree. Instead, I'd say Chris just happens to get herself/himself into some pretty crazy situations sometimes. Chris's Dad is a cop, so Chris often tells me that s/he won't get into any real trouble because her/his dad will bail him/her out. Chris is a self-proclaimed "stoner." That means s/he likes to smoke some pot and experiment with other drugs. Chris isn't particularly motivated and enjoys being a "rebel," but I personally think s/he likes to have the reputation of being a much wilder guy/girl than s/he really is.

In contrast to Chris, Jamie is very much an overachiever. Jamie has the tendency to get really worked up about the craziest little things. S/he stresses about tests, homework, FBLA, money, soccer games–you name it, it distresses Jamie. Chris and I often tease Jamie about needing to take something to chill out. In general, Jamie has been acting less stressed lately. S/he has been more willing to relax and to spend money and hang out with us. S/he just seems happier. In fact, last time we went out Jamie paid for everything in cash. Chris and I couldn't believe it! That was such a big step for Jamie. I think Jamie's attitude change has something to do with graduation coming up. I know Jamie is really looking forward to starting college. Unfortunately for Jamie, during the week of the arrest, Jamie was preparing for a huge presentation for the FBLA convention and was under immense pressure. The thought of going to jail has caused Jamie to completely go to pieces.

If I had to decide whose drugs were in the car, I would definitely say that the drugs were Chris's. Since I am under oath, I will admit that I have smoked an occasional joint or two. But nothing like Chris–s/he will try and use just about any type of drug. I attended a party recently at Chris's house where there was Crystal Meth being used. I did not actually see Chris do any drugs that night, but would wager that s/he did use them. S/he was acting as if s/he was high. That definitely would not be out of character for Chris.

As for Jamie, I was around when Jamie tried Crystal Meth one time. Even though Jamie seemed to really like it at the time, s/he told me later that s/he didn't plan to use it anymore since it was "illegal" and s/he could get him/her into trouble. Plus, Jamie told me that s/he was scared that s/he might like using drugs <u>too</u> much because they allow her/him to relax for a change.

I definitely do not think Jamie would keep drugs on campus. That would really cause her/him to over stress. Additionally, I have ridden in Jamie's car, and it is always messy. I find it pretty funny, given how uptight Jamie is about other things. I often tease Jamie about that. That car is so messy - it would be easy for Jamie to not know that Chris had stashed drugs in his/her car.

I have always known Chris and Jamie to be really good friends. I know they fight from time to time, but I have never heard of any significant fights that they would have had. As I have indicated, Jamie sometimes overreacts to things, and Chris can be a little vindictive and has a bit of a temper, but neither is anything to be too alarmed about.

Dated: October 25, 2001

/s/ Ashley Deselle

STATEMENT OF BILLY BRADLEY
(Defense Witness: Forensic Expert)

My name is Billy Bradley. I am the Assistant Chief Technician for Forensic Testers of America (FTA) with the Springdale Office. We are a national company which provides independent forensics testing. I received my bachelor's degree in Biology from Northwest State University in 1982 and a Ph.D. in Chemical Analysis from Greenwood University in 1988. Immediately following graduation, I received a two-year fellowship to conduct post-graduate studies in Forensics at the University of London. After returning to the United States, I accepted a senior laboratory technician position with FTA.

In addition to my education, I stay current with the forensics field by attending continuing education seminars provided by the American Board of Criminalists (ABC). I have been a licensed member of ABC since 1988. I have authored many articles on fingerprinting and hair analysis in trade publications such as Forensics Review and Modern Forensics.

My company, FTA, was hired by the Defendant to perform an independent forensics analysis on the forensic evidence in this case. I obtained the evidence from the Springdale Police Crime Lab and analyzed both the fingerprints on the plastic baggie and the hair found in the baggie. To analyze the fingerprints on such a non-porous surface as a baggie, I used two dye staining solutions and a forensic light source which provide a variety of colors of light. This is a sophisticated technique that has been developed in the last five years and is generally accepted in forensic science. I feel that this technique provides a more accurate result than the twenty(20) year old method used by Sam Railey. I was able to determine with ninety-nine point five (99.5) percent reliability that the full fingerprint belongs to Chris Rafter. Using the same techniques, I was able to determine the partial fingerprints did not belong to either the Defendant or to Chris Rafter.

I also examined the hair found in the baggie with the root still attached and performed a DNA analysis. I used the Polymarker test (also known as the Amplitype PM). This test was developed in 1995 and is superior to the test Sam Railey used for DNA analysis since the number of possible genotypes detected is 972. Additionally, the accuracy in identifying a person through DNA is significantly increased using the Polymarker test. I determined that the hair belongs to the Defendant, Jamie Davidson. However, after reviewing both the police report and the notes from the Prosecution's expert, Sam Railey, it is unclear that the position of the hair supports a finding that the Defendant owned and or used any of the methamphetamine. It is mere speculation that anything else could have occurred beyond a loose hair floating into the baggie from the contents of the car. After all, a hairbrush belonging to the Defendant was also gathered as evidence in this case. It is my expert opinion the hair could have been folded inside the foil by someone else accidentally, especially given the large amounts of hair floating loosely in the car.

With Chris Rafter's fingerprints being on the baggie, I have reason to believe that the drugs could have been Chris Rafter's. The evidence against Jamie is highly circumstantial.

As part of my preparation for testifying today, I have prepared an expert witness report. It includes my forensic analysis in this case. In preparation for this case I have reviewed the expert witness report of Sam Railey and all other witness statements.

Dated: October 30, 2002

/s/ Billy Bradley

Forensic Testers of America

State of Utopia In Springdale County	File No. 567 2000	Film No. AB438965
	Date of Offense:	April 30, 2001
Offense: Possession of Controlled Dangerous Substance	Offense in violation of : Title 63 Utopia Statutes Section 2-402	

STATE OF UTOPIA POLICE REPORT

I was dispatched to Springdale North High School on April 30, 2001, based on anonymous tip that one student, Jamie Davidson, had drugs in his/her car located in the Senior parking lot. I arrived at the school and was directed by Principal Lynn Sanderson to the vehicle owned by the Defendant. The Defendant's vehicle is a gold colored four door Ford Taurus, Tag #IDF-762. We found a messy car, but recovered what appeared to be methamphetamine from the vehicle that was wrapped in foil and inside a plastic baggie. When I found the baggie, I heard Jamie Davidson exclaim "Oh, No!" I interrogated both Jamie Davidson and his/her friend Chris Rafter. neither of which appeared to be under the influence of any drugs at the time. Upon conducting a pat-down search of both teens, Officer Carter found $314.25 in cash in Jamie's pants pocket. When asked about their prior drug use, Chris admitted that s/he had been in trouble with the law before a year earlier when s/he was picked-up with two marijuana cigarettes. Chris had pleaded guilty in juvenile court and received six months' probation. Jamie admitted that s/he had tried Crystal Meth once before, a few years ago, but hadn't ever used it again.

We arrested the Defendant for possession of methamphetamine.

Dated: May 2, 2001

Name of Investigating Officer: Officer Taylor Carter

Signature of Investigating Officer: Taylor Carter

SPRINGDALE POLICE DEPARTMENT LABORATORY REPORT

State of Utopia In Springdale County	File No. 567 2000 Film No. AB438965 Crime Lab No. 982367
State of Utopia v. Jamie Davidson	Date of Offense: April 30, 2001
Offense: Possession of Controlled Dangerous Substance	Date of laboratory analysis: May 10, 2001
ANALYSIS PERFORMED:	**FINDINGS:**
Chemical composition analysis X Test used: Acetone and Folic Acid	Composition: Methamphetamine Weight: 19.1 grams
Fingerprint Analysis: X Test Used: Magnetic fingerprint powder	Fingerprint analysis using magnetic fingerprint powder on the recovered sandwich baggie revealed one full readable fingerprint and several partial fingerprints. With 40% level of certainty, the full fingerprint belongs to Chris Rafter as determined from prior records. The ownership of the partial fingerprints is inconclusive.
DNA Analysis: X Type of material testing: Hair follicle Test Used: AmpliType HLS DQ kit	The DNA analysis of the hair follicle wrapped inside the foil in the baggie revealed that the hair belongs to Jamie Davidson with 98% level of certainty.
Date of Report: May 15, 2001	
Laboratory Technician: Sam Railey	Signature: Sam Railey

FORENSIC TESTERS OF AMERICA
LABORATORY ANALYSIS REPORT

File No: 982576-JD
Case: State of Utopia v. Jamie Davidson
Date of Lab Analysis: July 26, 2001

Test Performed	Findings
Chemical composition analysis ✓	Composition: Methamphetamine Test used: Acetone and Folic Acid Weight: 18.7 grams
Fingerprint Analysis: ✓	With the fingerprint analysis using two dye staining solutions and a forensic light source it was determined that the full print belonged to Chris Rafter. The percentage of certainty is 99.5%. The recovered partial fingerprints do not belong to either Jamie Davidson or Chris Rafter. Test Used: Dye stain solutions (2) and Forensic light source.
DNA Analysis: ✓	The DNA analysis of the hair follicle Type of material tested: Hair follicle recovered from the baggie and foil belongs to Jamie Davidson with ninety-nine (99) percent degree of certainty and with a match of 972 genotypes. Test Used: Polymarker (Amplitype PM)

Date of Report: August 1, 2001

Laboratory Technician: Billy Bradley

/s/ Billy Bradley
Technician Signature

Oklahoma High School Mock Trial Program

RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 101. Scope

These Simplified Federal Rules of Evidence (Mock Trial Version) govern the trial proceedings of the Oklahoma High School Mock Trial Program.

Rule 102. Purpose and Construction

These Rules are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.

Rule 103. Rulings on Evidence

(a) Effect of erroneous ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and

(1) Objection. In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(2) Offer of proof. In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.

(b) Record of offer and ruling. The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form.

(c) Hearing of jury. In jury cases, proceedings shall be conducted, to the extend practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.

(d) Plain error. Nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the court.

Rule 104. Preliminary Questions

(a) Questions of admissibility generally. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subdivision (b). In making its determination it is not bound by the rules of evidence except those with respect to privileges.

(b) Relevance conditioned on fact. When the relevance of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) Hearing of jury. Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require, or when an accused is a witness and so requests.

(d) Testimony by accused. The accused does not, by testifying upon a preliminary matter, become subject to cross-examination as to other issues in the case.

(e) Weight and credibility. This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

Rule 105. Limited Admissibility

When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for another purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

Rule 106. Remainder of or Related Writings or Recorded Statements

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

ARTICLE II. JUDICIAL NOTICE

Rule 201. Judicial Notice of Adjudicative Facts

(a) Scope of rule. This rule governs only judicial notice of adjudicative facts.
(b) Kinds of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
(c) When discretionary. A court may take judicial notice, whether requested or not.
(d) When mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.
(e) Time of taking notice. Judicial notice may be taken at any stage of the proceeding.

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 401. Definition of "Relevant Evidence"

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible

All relevant evidence is admissible, except as otherwise provided in these Rules. Evidence which is not relevant (irrelevant evidence) is not admissible.

Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Rule 404. Character Evidence not Admissible to Prove Conduct; Exceptions; Other Crimes

(a) Character evidence generally. Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

(1) Character of accused. Evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the same;

(2) Character of victim. Evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;

(3) Character of witness. Evidence of the character of a witness, as provided in Rules 607 and 608.

(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Rule 405. Methods of Proving Character

(a) Reputation or opinion. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct.

(b) Specific instances of conduct. In cases in which character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

Rule 406. Habit; Routine Practice

Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

ARTICLE VI. WITNESSES

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.

Rule 603. Oath or Affirmation

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

Rule 607. Who May Impeach

The credibility of a witness may be attacked by any party, including party calling the witness.

Rule 608. Evidence of Character and Conduct of Witness

(a) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(b) Specific instances of conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination when examined with respect to matters which relate only to credibility.

Rule 609. Impeachment by Evidence of Conviction of Crime

(a) General rule. For the purpose of attacking the credibility of a witness,
   (1) evidence that a witness other than an accused has been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused; and
   (2) evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.

(b) Time limit. Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) Effect of pardon, annulment, or certificate of rehabilitation. Evidence of a conviction is not admissible under this rule if
   (1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or
   (2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(d) Juvenile adjudications. Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) Pendency of appeal. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

Rule 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

Rule 611. Mode and Order of Interrogation and Presentation

(a) Control by court. The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of cross-examination. The scope of cross-examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.

(c) Leading questions. Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

Rule 612. Writing Used to Refresh Memory

If a written statement is used to refresh the memory of a witness either while or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross-examine the witness on the material and introduce into evidence those portions which relate to the testimony of the witness.

Rule 613. Prior Statements of Witnesses

(a) Examining witness concerning prior statement. In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

(b) Extrinsic evidence or prior inconsistent statement of witness. Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate the witness thereon, or the interests of justice otherwise require. This provision does not apply to admissions of a party-opponent as defined in Rule 801 (d) (2).

Rule 614. Calling and Interrogation of Witnesses by Court

(a) Calling by court. The court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

(b) Interrogation by court. The court may interrogate witnesses, whether called by itself or by a party.

(c) Objections. Objections to the calling of witnesses by the court or to interrogation by it may be made at the time or at the next available opportunity when the jury is not present.

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701. Opinion Testimony by Lay Witnesses

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

Rule 703. Bases of Opinion Testimony by Experts

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

Rule 704. Opinion on Ultimate Issue

(a) Except as provided in subdivision (b), testimony in the form on an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

(b) No expert witness testifying with respect to the mental state or condition of a defendant in a criminal case may state an opinion or inference as to whether the defendant did or did not have the mental state or condition constituting an element of the crime charged or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.

Rule 705. Disclosure of Facts or Data Underlying Expert Opinion

The expert may testify in terms of opinion or inference and give reasons therefor without first testifying to the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

ARTICLE VIII. HEARSAY

Rule 801. Definitions

The following definitions apply under this article:

(a) Statement. A "statement" is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by the person as an assertion.

(b) Declarant. A "declarant" is a person who makes a statement.

(c) Hearsay. "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) Statements which are not hearsay. A statement is not hearsay if:

(1) Prior statement by witness. The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (A) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or

(2) Admission by party-opponent. The statement is offered against a party and is (A) the party's own statement in either an individual or a representative capacity, or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a co-conspirator of a party during the course and in furtherance of the conspiracy.

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these rules.

Rule 803. Hearsay Exceptions; Availability and Unavailability of Declarant Immaterial

(a) The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) Present sense impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then existing mental, emotional, or physical condition. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it

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relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purposes of medical diagnosis or treatment. Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) Recorded recollection. A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack or trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) Absence of entry in records kept in accordance with the provisions of paragraph (6). Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Public records and reports. Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (C) in civil actions and proceedings and against the Government in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

(10) Absence of public record or entry. To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, testimony that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(20) Reputation concerning boundaries or general history. Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or State or nation in which located.

(21) Reputation as to character. Reputation of a person's character among associates or in the community.

Rule 804. Hearsay Exceptions; Declarant Unavailable

(A) Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant–

(1) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(2) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

(B) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement under belief of impending death. In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be impending death.

(3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

Rule 807. Residual Exception

A statement not specifically covered by Rules 803 or 804 but having equivalent circumstantial guarantees of trustworthiness, is not excluded by the hearsay rule, if the court determines that

(A) the statement is offered as evidence of a material fact;

(B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and

(C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence.

However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant.

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 901. Requirement of Authentication or Identification

The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

Rule 902. Self-authentication

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(4) **Certified copies of public records.** A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with any Act of Congress or rule prescribed by the Supreme Court pursuant to statutory authority.

(5) **Official publications.** Books, pamphlets, or other publications purporting to be issued by public authority.

(6) **Newspapers and periodicals.** Printed materials purporting to be newspapers or periodicals.

(7) **Trade inscriptions and the like.** Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.

(8) **Acknowledged documents.** Documents accompanied by a certificate of

acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments.

ARTICLE X. MISCELLANEOUS RULE

These rules may be known and cited as the **Simplified Federal Rules of Evidence (Mock Trial Version)**.

Oklahoma High School Mock Trial Program

RULES OF COMPETITION

2002-2003

Modified and Revised
OBA-Young Lawyers Division
High School Mock Trial Committee
Mock Trial Chairperson - Laura McCasland
Mock Trial Executive Vice Chairperson - Jennifer McBee
Mock Trial Immediate Past Chairperson - Mark Osby
Mock Trial Coordinator - Judy Fitzer

11-11-02

RULES OF COMPETITION

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INTRODUCTION

The Rules of Competition governing the Oklahoma High School Mock Trial Program (the "Program") are designed to insure excellence in student presentation and fairness in trial judging.

The primary goal of the Program is to educate the student participants. While healthy competition furthers this goal, an excessively competitive spirit is detrimental. Teamwork and good sportsmanship are an integral part of the Program. The reality of the adversarial system is that one party wins and the other loses. Students must accept either outcome in a mature manner. The highest value should be placed on excellence in preparation, presentation and representation of the "client."

A mock trial is not a speech or debate tournament or a dramatic presentation, although elements of all three may be utilized. Style, voice and diction are valuable tools, but their merit is lost unless the Court understands the overall message and is persuaded to agree with the presenter. It is important to remember that this Program, just like the judicial system, is administered by people and, therefore, subject to individual interpretations. Unexpected obstacles in the course of a trial are the rule rather than the exception. Being prepared to deal with the unexpected obstacles that will inevitably arise is an important part of being prepared for the competition. There will be no special requests for scheduling dates. Any questions that arise that are not included specifically in the Rules of Competition or the Rules of Evidence will be individually addressed by the Mock Trial Executive Committee.

I. ELIGIBILITY

A. TEAM COMPOSITION

1. All participants in the Program must be students in grades 9, 10, 11 or 12, and all team members must be enrolled in the same public or private Oklahoma High School.
2. A team will consist of as many student members and alternates as wish to participate and who are listed on the official team roster. However, there is a limit on the number of students who may participate in a given round.
   (Special Note--Rules for the National Competition differ slightly, the National Competition rule reads "Teams consist of eight official members assigned to roles representing the prosecution/plaintiff and defense/defendant sides. Only six members may participate in any given round. Student timekeepers may be provided by the teams; however, these persons are not considered "official timekeepers" in the tournament. At no time may any team for any reason substitute unofficial team members for official team members. The Team Roster will become official at the time of on site registration."
3. No student will be a member or alternate on more than one team.
4. A school may enter more than one team.
5. If a school has more than one team entered in the Program, there is no guarantee that the teams will not be required to compete against each other. It is strongly recommended that if a school enters two teams, each team should have a different teacher coach.
6. High schools with an enrollment of 150 students or less in grades 9 through 12 may petition the Mock Trial Committee to combine with one other high school (with enrollment of 150 students or less) to enter one team for the competition. A petition form may be requested from Judy Fitzer, Mock Trial Coordinator, 405-348-1632.

B. OFFICIAL TEAM ROSTER

1. All teacher coaches must provide the Oklahoma High School Mock Trial Coordinator with an Official Team Roster containing the names, grade classification and years in program of each team member and alternate team members *no later than* January 3, 2003.

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2. All teacher coaches must provide the Trial Site Coordinator at each competition site with four copies of each (prosecution/plaintiff and defense/defendant) Team Roster. (NOTE to Teacher Coaches - Make ample copies of "Team Roster" for later use.)
3. No changes to the Official Team Roster will be permitted after January 3, 2003, without first obtaining written approval of the Committee. Written requests should be sent to the Mock Trial Coordinator
4. A team will forfeit each trial in which a student participates as a member or an alternate if the student:
   a. does not meet the requirements of Rule I.A.1-3.
   b. is not listed on the official team roster;
   c. is listed on more than one official team roster; or
   d. is a member of another team, including another team for the same school.

C. COMMITMENT

1. All registered teams commit themselves to participate in the competition.
2. Withdrawal from the competition, at any time, presents hardships for other teams and for the attorneys and judges who have adjusted their schedules for the program.

D. COSTS

1. The costs of participating in the competition are the responsibility of the participating schools or their local communities.

II. THE CASE

A. CASE MATERIALS

1. The case materials consist of stipulations, items of demonstrative evidence and six witness statements (three for each side) and a brief statement of the facts of the case.
2. Students may read cases, materials and articles not in the case materials in preparing for the mock trial. However, the case materials are the sole source of information for testimony and demonstrative evidence during the competition. The supporting materials *(if any)* contained in the case packet are for informational background only.
3. Exhibits cannot be altered in any way, unless specifically directed by the Mock Trial Executive Committee.

B. STIPULATIONS

1. Stipulations are statements of law and facts which are deemed to be true and correct.
2. The prosecution/plaintiff, prior to commencement of prosecution/plaintiff's opening statement, will move that the stipulations be admitted into evidence.
3. The stipulations may not be disputed.

C. EVIDENCE

1. Items of demonstrative evidence are intended to provide both the prosecution/plaintiff and the defense/defendant an opportunity to introduce physical evidence during the presentation of their case.
2. Points are awarded on usage (how used in case) during the trial - not introduction.

D. WITNESS STATEMENTS

1. Witness statements set forth the facts of the case and are each witness's position on how the events occurred. Each witness's statement is in the form of a sworn statement (sometimes called an Affidavit) to ensure that the witness will not completely change his/her story. Students may innocently embellish the "facts" of the case, if necessary. Students are encouraged to "think on their feet." A memorized script defeats the purpose of the Program. The statements do not address everything! Students should use the witness statements as the framework for development of the case. Other uses of the witness statements are impeachment and refreshing recollection.
2. Each witness is bound by his/her sworn statement.
3. A witness is not bound by the statements of other witnesses.
4. Witnesses' statements are subject to all human tendencies which may occur in similar situations, e.g., distortion and even dishonesty.
5. All witnesses must remain in the courtroom during the entire trial. A team may not "Invoke the Rule."
6. Witness statements are generally gender neutral. Before beginning a trial, each team should determine the gender of the opposing team's witnesses so that references to such parties will be made in the proper gender. *This can be accomplished with the Team Roster that is given to the opposing teams immediately prior to the trial.*
7. Witnesses cannot use notes while testifying.
8. On direct examination, the witness's testimony is limited to the facts set forth in the case materials.
9. On cross-examination, no restrictions will be made on the witness or the scope of the cross-examination, except that the answer must be responsive and the witness can be impeached.
10. The witness statements are not to be introduced as evidence during the trial.
11. The information contained in the statement of facts can be used in an opening statement, if appropriate.

E. STATEMENT OF THE FACTS OF THE CASE

1. An individual may only be impeached on his/her statement given under oath (affidavit). The Statement of Facts of the Case is provided as additional information. A witness may admit or deny information contained in the Statement of the Facts of the Case. The witness cannot be impeached by reference to or admission of the statement if the admission or denial is contrary to his/her affidavit. The Statement of Facts of the Case is not part of the case stipulations.

F. EXTRAPOLATION

1. It is virtually impossible to provide witnesses with detailed answers to every conceivable question that attorneys can ask. The witness statements are not a complete life history. If an attorney's question solicits information not contained in the case materials, the witness may extrapolate the answer of his/her choice as long as it is consistent with the witness's sworn statement and does not materially affect the witness's sworn statement. Witnesses should avoid a rigid, mechanical approach to the trial, but should stay within the bounds of honest competition. Although the facts cannot be changed in order to best represent their client, a team may present the facts in the most favorable manner.
2. Unfair extrapolation is the adding of facts which: (i) are not reasonably inferable from a witness statement; (ii) benefit the speaker's side and harm the other side; and (iii) are material. A fact can be reasonably inferred from the witness statements if it flows naturally from a fact or set of facts in the case materials.

3. Examples of unfair extrapolation include, but are not limited to: (i) creating a physical or mental disability when the statement does not indicate such; (ii) giving a witness a criminal or bad record when none is suggested by the statements; (iii) materially changing the profession, character, memory, mental or physical ability of the witness; and (iv) testifying to "recent changes."

G. PROCEDURE FOR OBJECTION TO UNFAIR EXTRAPOLATION

Attorneys for the opposing team may object based on "Unfair extrapolation" or "This information is beyond the scope of the statement of facts," only during the course of the trial (not at the end). ***Such an objection may only be raised by the attorney who is responsible for the examination of the witness alleged to have unfairly extrapolated material.***

1. Possible rulings by a judge include:
   A. No extrapolation has occurred;
   B. An unfair extrapolation has occurred, such as;
      (1) "Assuming facts not in evidence,"
      (2) "Improper characterization of witness."
   C. The extrapolation was fair; or
   D. Ruling is taken under advisement.

The decision of the Presiding Judge regarding extrapolations or evidentiary matters is final. When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings.

2. No points are deducted for unfair extrapolation. However, a Scoring Panelist may consider the unfair extrapolation and how it was handled by witnesses and attorneys in evaluating the performance of a participant.

III. TRIAL ROUNDS

1. The program consists of one round of scrimmages and four rounds of competition:

Round	Teams Participating
Preliminary	All teams (3 scrimmages maximum - no elimination)
Qualifying	All teams (approximately one-half progress to next round)
Quarter Finals	Approximately one half of teams from Qualifying (Actual number may exceed one half depending on number of schools participating)
Semi-Finals	Eight teams (see VII.Advancement(d)
Finals	Two winning teams from Semifinal round

2. Trial rounds will begin in January and will be completed on March 4, 2003.
3. The preliminary rounds are actually practice rounds or scrimmages. During the preliminary round, teams must, on their own, arrange a practice competition against at least one other school, or hold at least one in-school competition. No team may participate in more than three practice rounds or scrimmages with teams from other schools. At each scrimmage, teams may argue one or both sides of the case. Once preliminary rounds begin any practice session between two teams from the same school will be considered one of each team's three scrimmages. During the preliminary round, teacher coaches and attorney coaches will be responsible for scheduling their own courtroom, trial date, judges, etc.

Each team has a total of 55 minutes to presents its portion of the case.

A TYPICAL TRIAL SCHEDULE FOR 4-TEAM COMPETITION ROUNDS MAY BE AS FOLLOWS:

MORNING TRIALS

9:00 - 11:00	**Prosecution/Plaintiff - Defense/Defendant**			
	Team A	**v**	**Team B**	**Courtroom 1**
	Prosecution/Plaintiff Defense/Defendant			
	Team C	**v**	**Team D**	**Courtroom 2**
11:00 - 11:30	**Scoring and Critiques**			

AFTERNOON TRIALS

1:30 - 3:30	**Prosecution/Plaintiff - Defense /Defendant**			
	Team B	**v**	**Team C**	**Courtroom 1**
	Prosecution/Plaintiff - Defense/Defendant			
	Team D	**v**	**Team A**	**Courtroom 2**
3:30 - 4:00	**Scoring and Critiques**			
4:00 - 4:30	**Announcements**			

A TYPICAL TRIAL SCHEDULE FOR 3-TEAM COMPETITION ROUNDS MAY BE AS FOLLOWS:

8:30 - 10:30	**Prosecution/Plaintiff - Defense/Defendant**			
	Team A	**v**	**Team B**	**Courtroom 1**
10:30 - 11:00	**Scoring and Critiques**			
11:30 - 1:30	**Prosecution/Plaintiff - Defense/Defendant**			
	Team B	**v**	**Team C**	**Courtroom 1**
1:30 - 2:00	**Scoring and Critiques**			
2:30 - 4:30	**Prosecution/Plaintiff - Defense/Defendant**			
	Team C	**v**	**Team A**	**Courtroom 1**
4:30 - 5:00	**Scoring and Critiques**			

IV. THE TRIAL

A. REPORTING FOR TRIAL

1. Immediately upon arriving at the trial site, the teacher coach must report to the Trial Site Coordinator and provide him/her with four (4) copies of the Team Roster (both prosecution/plaintiff and defense/defendant) so that the Trial Site Coordinator may distribute the copies to the Judge and Scoring Panelists.
2. Teams should be present in the courtroom and ready to commence the trial at least 15 minutes before the designated starting time of the trial.
3. The starting time of any trial will not be delayed more than fifteen minutes unless, for good cause shown, a decision to the contrary is made by the Trial Site Coordinator. The Trial Site Coordinator's decision is final and non-appealable.
4. Incomplete teams must use their alternates or forfeit the trial.

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B. TRIAL DECORUM

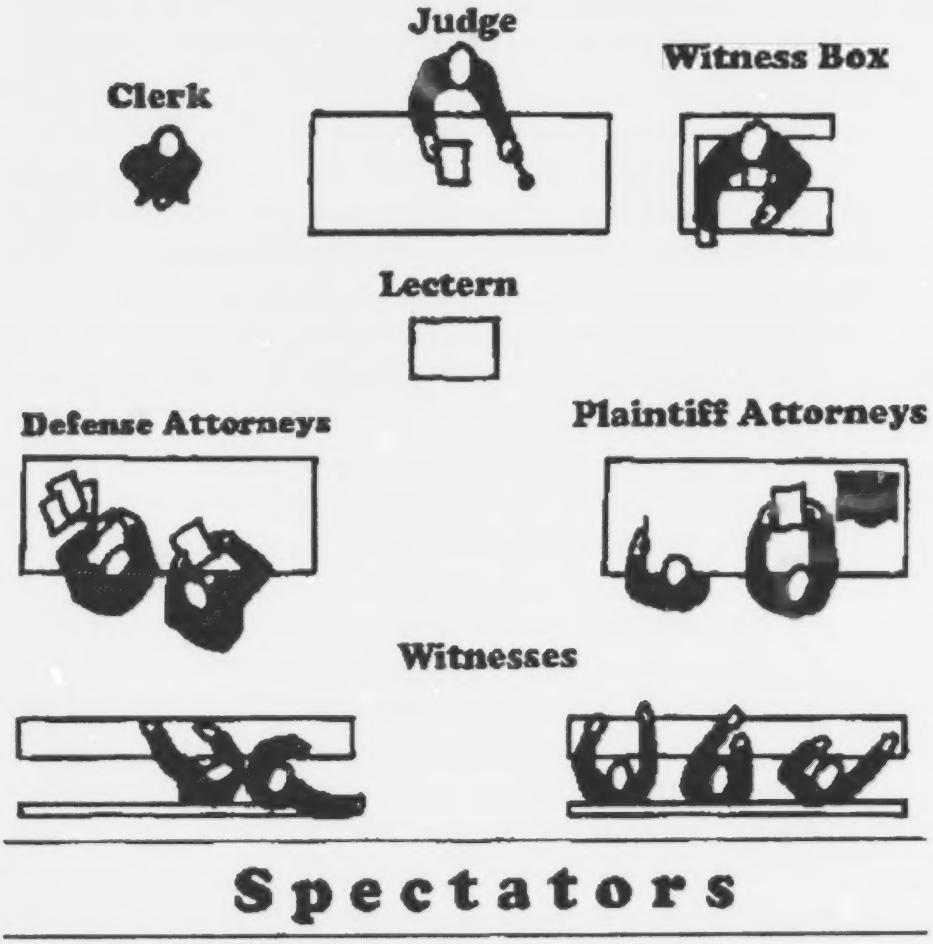
1. All participants must display proper courtroom decorum and good sportsmanship during all aspects of the competition.
2. Chewing gum, eating, drinking, personal grooming, wearing a hat, using radios with headphones, and using tobacco, in any form, are strictly prohibited in the courtroom. *Smoking is strictly prohibited in and around the courthouse or at any location where a competition is held.*
3. Students must wear proper courtroom attire. It is preferred that gentlemen wear a coat and tie and that ladies wear a dress, pant suit, or skirt and jacket. Witnesses may dress according to their roles, but may not wear costumes, i.e.; police uniforms. Ladies should be careful to wear dresses or skirts of appropriate length to ensure modesty.
4. Student participants must be courteous to all participants from other schools, judges and attorneys, and courthouse personnel.
5. All parties must stand when the Presiding Judge and Scoring Panelists enter or leave the courtroom. Students must stand, unless prevented by a disability, when addressing the Presiding Judge, examining a witness, making/arguing objections and presenting opening or closing statement.
6. Students must address the Presiding Judge as "Your Honor."
7. Students must refer to attorneys as Mr. or Ms. or Counsel and not by their first names.
8. Students must direct all remarks and arguments to the Presiding Judge and/or Scoring Panelist and not to opposing counsel.
9. Students must request permission from the Presiding Judge to approach the bench, a bailiff or a witness, or retrieve an exhibit, unless the Presiding Judge directs otherwise.
10. If ruled against on an objection or in the case, accept the decision gracefully, but do not thank the court for each decision.
11. A decision made by any judge with regard to the introduction of evidence, rulings on objections, challenges and all other matters properly before the judges are final and not appealable.

NOTES

C. IN THE COURTROOM

1. Before participating in a mock trial, it is important to be familiar with the physical setting of the courtroom and the roles participants play during the trial. The courtroom layout is not mandatory and may be adjusted by the Presiding Judge and by necessity according to the courtroom facilities. The following "Courtroom Layout" diagram is an example. The actual layout for the competition may differ from courthouse to courthouse.

EXAMPLE OF POSSIBLE COURTROOM LAYOUT



PARTICIPANTS

Presiding Judge-----	In a jury trial he/she instructs the jury and guides the trial. In a non-jury trial he/she also renders the verdict.
Scoring Panelists --	Score participants on performance.
Attorneys ----------	Prosecution/plaintiff - Defense/Defendant
Witnesses ----------	Prosecution/plaintiff - Defense/Defendant
Bailiff----------	Administers the oath to all who are to offer testimony. He/she also assists the judge and enforces the judge's wishes. (See IV.G.2)
Timekeeper----------	Team member responsible for timing court proceedings carefully and accurately, following the "Information for Timekeepers" packet.
Witness Box---------	Where the witness will sit while testifying.
Jury Box----------	Where the Scoring Panelists observe the trial, also where official team timekeepers sit.
Prosecution/Plaintiff Table----	Table closest to the Jury Box.
Defense/Defendant Table-----	Table furthest from the Jury Box..

D. SIMPLIFIED RULES OF EVIDENCE

1. All trials will be governed by the "Simplified Rules of Evidence" (Mock Trial Version). Other more complex rules may not be raised in the trial.

E. PRESENTATION OF BOTH SIDES OF THE CASE

1. Teams must prepare to present both the prosecution/plaintiff's and the defense/defendant's side of the case in each round.
2. Team members may reverse roles when presenting opposite sides of the case.

F. ATTORNEY ROLES

1. Attorneys may call only their own witnesses and may not recall any witness.
2. Attorneys may use notes in presenting their cases.
3. No one attorney may present both opening and closing statements. Violation of this rule will result in a mandatory deduction of twenty (20) points.

G. LIMITATIONS ON PARTICIPATION

1. Participation is encouraged from as many students as desire to become involved in the competition.
2. The defense/defendant team in each trial must provide the bailiff.
3. Each team must furnish an official timekeeper for each trial. This is a very important task and the student(s) -[a maximum of two students, but only ONE (1) stop watch] must be **thoroughly trained**, and have a properly working stop watch. An extra stop watch (or battery) may save the day.

4. There are a total of eight attorney duties for each side of the case.
5. The prosecution/plaintiff and defense/defendant team may consist of between five and nine members sitting at each counsel table during trial. The bailiff and timekeeper(s) sit apart from the team during trial at a location designated by the Trial Site Coordinator. Only the prosecution/plaintiff and defense/defendant and their counsel may sit at the counsel table during the trial, unless necessity due to limited courtroom facilities requires that all witnesses sit at the counsel table. If a large number of students are participating, it would appear less crowded at counsel table if witnesses were seated behind the counsel table, but within the 'Bar'.

H. DIRECT / CROSS-EXAMINATIONS

1. Only the one attorney who conducts the direct and redirect examination of a particular witness will make objections to that witness's cross and recross examination
2. Only the one attorney who conducts the cross and recross examination of a particular witness will make objections during that witness's direct and redirect examination.
3. Four penalty points will be assessed for <u>each</u> violation of these rules on direct/cross-examination or redirect/recross examination.
4. Only one (1) attorney (one student) can conduct the direct and redirect of a witness and likewise the cross and recross. It is not permitted to switch students/attorneys in the middle of an examination.

I. CALLING OF WITNESSES

1. Each team must call and examine all three of its assigned witnesses.
2. Each team may call their witnesses in any order.
3. Witnesses may be called only by their own team and may not be recalled by either side.
4. No witnesses other than the six for which sworn statements are provided in the materials will be permitted to testify.

J. BENCH CONFERENCES

1. Student attorneys may request a bench conference to clear up any procedural or factual questions.
2. One student attorney representative from each side must be present for all bench conferences.

K. TRIAL SEQUENCE / TIME LIMIT

1. The plaintiff is limited to 55 minutes for the presentation of its entire case. The defendant is limited to 55 minutes for the presentation of its entire case.
2. Penalty points will be assessed if a team exceeds the 55 minute time limit. **One (1) penalty point will be assessed for each one-half (½)** minute the team goes over the time limit.
3. The Presiding Judge may, at his/her sole discretion, grant time extensions in the interest of fairness.

4. *Motions in limine, motions for a directed verdict, motions for judgment as a matter of law and other similar trial motions are **not** allowed in this competition.*
5. The chart on page 11 contains suggested times for each phase of the trial. The chart is not binding in any way on either team and is offered herein solely for informational purposes.

NOTES

SUGGESTED TIME LINE

ROLE	FUNCTION	SUGGESTED TIME
	OPENING	
1. Prosecution/Plaintiff	Opening Statement	5
2. Defense/Defendant	Opening Statement	5
	WITNESS EXAMINATIONS	
Prosecution/Plaintiff Witness #1		
3. Prosecution/Plaintiff	Direct Examination	7-8
4. Defense/Defendant	Cross-Examination	4-7
5. Prosecution/Plaintiff	Redirect (Option of team)	2
6. Defense/Defendant	Recross (Option of team))	2
Prosecution/Plaintiff Witness #2		
7. Prosecution/Plaintiff	Direct Examination	7-8
8. Defense/Defendant	Cross-Examination	4-7
9. Prosecution/Plaintiff	Redirect (Option of team)	2
10. Defense/Defendant	Recross (Option of team)	2
Prosecution/Plaintiff Witness #3		
11. Prosecution/Plaintiff	Direct Examination	7-8
12. Defense/Defendant	Cross-Examination	4-7
13. Prosecution/Plaintiff	Redirect (Option of team)	2
14. Defense/Defendant	Recross (Option of team)	2
Defense/Defendant Witness #1		
15. Defense/Defendant	Direct Examination	7-8
16. Prosecution/Plaintiff	Cross-Examination	4-7
17. Defense/Defendant	Redirect (Option of team)	2
18. Prosecution/Plaintiff	Recross (Option of team)	2
Defense/Defendant Witness #2		
19. Defense/Defendant	Direct Examination	7-8
20. Prosecution/Plaintiff	Cross-Examination	4-7
21. Defense/Defendant	Redirect (Option of team)	2
22. Prosecution/Plaintiff	Recross (Option of team)	2
Defense/Defendant Witness #3		
23. Defense/Defendant	Direct Examination	7-8
24. Prosecution/Plaintiff	Cross-Examination	4-7
25. Defense/Defendant	Redirect (Option of team)	2
26. Prosecution/Plaintiff	Recross (Option of team)	2
	CLOSING	
27. Prosecution/Plaintiff	Closing Argument	4
28. Defense/Defendant	Closing Argument	6
29. Prosecution/Plaintiff	Rebuttal Closing (Option of team)	2

(The prosecution/plaintiff may choose to split the time allotted for the teams' closing to allow for rebuttal argument. If the team chooses this option, the prosecution/plaintiff should notify the Presiding Judge before beginning closing argument. The same attorney, however, must perform both portions of the closing.)

L. TIMEKEEPING

1. Each team must furnish (at least) one official timekeeper for each trial. *This is a very important task and the student timekeepers must be* ***thoroughly trained****, and have a properly working stop watch and a calculator.* Timekeepers from each team must sit together in the jury box (or if not possible, where the Trial Site Coordinator directs).* Each team's timekeeper must be positioned so that the student attorney at the podium can view the time limit cards.
2. Student timekeeper(s) from each team will monitor the time expended by each team during the entirety of the competition round.
3. Each team will be provided one (1) set of time cards which may be exhibited by holding the cards up so that the time remaining can be observed by the student attorney at the podium. The time cards may be displayed at the option of each team, but only <u>during</u> the last five minutes of the team's time allotment. ***(These time cards <u>must</u> be kept and used at all remaining competitions).***
4. *Timekeepers must keep a running balance of the time expended to allow for an immediate report of each team's remaining time.* The **only** times when such a report may be given are: (a) prior to closing arguments and only upon request by the student attorney making the closing argument; and (b) upon conclusion of the trial (as stated in paragraph 5, below). **Once the timekeepers report the time remaining for closing arguments, the reported time cannot be changed or altered.** In case any dispute arises between the timekeepers (which cannot be resolved between the timekeepers), the Trial Site Coordinator will speak with each timekeeper and settle the dispute, prior to closing arguments. The Trial Site Coordinator's decision is final and non-appealable and will establish the time remaining for closing arguments.
5. Immediately after the conclusion of each trial, the timekeepers will submit their time sheets to the Trial Site Coordinator and notify him/her of the number of minutes, if any, by which either team exceeded the 55 minute time limit. The Trial Site Coordinator shall inform the Scoring Panelists so that proper penalty points (if any) may be assessed.
6. Timekeepers will <u>NOT</u> stop a team should it exceed the time limit. The team will be allowed to complete the trial and the excess time over 55 minutes will be reported for the purpose of computing penalty points.
7. Time starts when each attorney begins to speak.
8. Time stops when the attorney makes the last statement upon completion of a given task.
9. In addition, time is halted:
   (a) from the time the witness is called until he/she finishes taking the oath;
   (b) from the time an objection is raised until the attorney resumes the task which the objection interrupted;
   (c) from the time a bench conference is called until the attorney resumes the task which the bench conference interrupted;
   (d) during the time the Presiding Judge raises questions or grants a time extension in the interest of fairness; and
   (e) during the time opposing counsel examines exhibits.
10. The Presiding Judge, at the request of either party, may extend the time limits in the interest of fairness, if in the Presiding Judge's opinion any of the opposing witnesses have belabored answers to questions, been exceedingly difficult or given the appearance of stalling or if opposing counsel has raised frivolous objections which appear to the Presiding Judge to be designed to lengthen the time for the examining party to complete the examination. The purpose of this rule is limited to circumstances where it appears to the Presiding Judge that one team may be causing delays to hamper the other team's ability to finish completing the <u>case within the allotted time</u>.

*One timekeeper per school is preferred. However, a school may allow a maximum of two students to perform the timekeeping task during any trial. If two students are used, they must **share one stop watch**.

M. DISPUTE SETTLEMENT - PROTEST PROCEDURE

1. Upon the conclusion of the case presentation in its entirety, the Presiding Judge will excuse the Scoring Panelists to begin tallying scores. The Presiding Judge will then allow the teams two (2) minutes to conference among themselves, without any contact with their teacher coach and/or attorney coach, regarding any possible rules infractions. **Reminder - No unfair extrapolations rules are considered during this process. Any reference to unfair extrapolations must be made during the course of the trial at the time of their occurrence. See Rule II.G.**
2. At the end of the two minutes, the Presiding Judge will ask each team if they are aware of any alleged rules violation. Only one member from each team may respond to the Judge. If either team announces a rules violation, the Presiding Judge will ask the selected spokesman for each team to state the nature of the rules violation alleged to the degree necessary to fairly apprise the other team to prepare a defense.
3. Upon appropriate announcement of the nature of the alleged rules violation, a three-minute (3) recess will be called, during which time each team must prepare its complaint/defense. During this three-minute (3) recess each team may confer with their teacher coach and/or attorney advisor. The Presiding Judge will then call the assembly back to order. **(At this time either team may withdraw any or all of their alleged violations.)** The complaining team will be granted two minutes (2) per alleged violation, with a maximum of four minutes (4) aggregate, to state the alleged infraction(s). The responding team will be given an equal amount of time to respond and defend. The burden or proof rests with the complaining team. If both teams allege an infraction, the prosecution/plaintiffs will present their complaint(s) first.
4. Upon conclusion of presentations and defenses, the Presiding Judge will join the Scoring Panelists and advise them if any penalty points are to be assessed on their "Performance Rating Form."
5. The decision concerning the assessment of penalty points is at the sole discretion of the Presiding Judge and thereby final.

N. CONTACT / VIEWING / COMMUNICATION WITH TEAMS

1. As long as a team remains in the competition, its members, alternates, teacher coaches, and attorney advisors will not observe or allow anyone else associated with their team or any of its members to observe another team by any method, including, but not limited to, attending a practice session or trial, viewing or listening to any video or audio tape of other teams litigating the current year's problem during trial or practice sessions.
2. Teacher coaches, attorney advisors, other teams members and all other observers shall not talk to, signal, communicate with, coach or attempt to coach their teams once the trial has begun. This rule is also in effect during breaks in the trial, should any occur.
   (a) Ten (10) penalty points must be assessed by each scoring panelist for blatant violation of Rule 2 (Any discussion or comment whatsoever concerning the competition will mandate a ten (10) point penalty.)
   (b) The Presiding Judge has the sole discretion to determine whether or not a "Blatant Violation" occurred. The Presiding Judge may determine that no points or less than ten (10) penalty points should be assessed. (For instance, there have been times when a team member must speak to the teacher regarding a physical illness, emergency call to home, conflict in a personal time schedule, confirming a bus ride home, etc.)
   (c) The Presiding Judge will either assess the mandatory ten (10) points or find that the contact which occurred was harmless and should not subject a team to penalty points. The Presiding Judge may inquire of any student/teacher coach/attorney coach regarding the alleged violation. Once the Presiding Judge has made a decision it is FINAL.

3. If an emergency occurs where a student must speak to a teacher coach or attorney coach, the Trial Site Coordinator should be notified and be present during the communication.
4. Teacher coaches and attorney coaches must remain in the spectator seating area throughout the trial.
5. Co-counsel may communicate discreetly among themselves during the trial. Counsel may also communicate discreetly with their witnesses during the trial. However, all such communications should be kept to a minimum. Abuse of the communication privileges may be severely penalized by the Scoring Panelists. By way of example and limitation, the following would constitute an abuse: a witness or co-counsel is writing questions for an obviously unprepared team member. Distracting or disruptive communication will be graded accordingly.

O. OBJECTIONS

1. Teams are encouraged to make objections, but with this caveat: just as proper objections may lead to positive points, improper objections may cause a score to be lowered.
2. No objections may be raised during opening statements or during closing arguments. If a team believes an objection would have been necessary during the opposing team's closing, a student may, following the closing arguments, raise his/her hand to be recognized by the judge and may say, "If I had been permitted to object during closing arguments, I would have objected to the opposing team's statement that _____." The Presiding Judge will not rule on this "objection." Presiding Judges and Scoring Panelists will weigh the "objection" individually. No rebuttal by opposing team will be heard.

P. KNOWLEDGE OF RULES

1. During the trial, the attorney making the objection or responding to an objection must be prepared to cite the specific rule on which any argument he/she makes is based.
2. Not all judges will interpret the Rules of Evidence or procedure the same. The Presiding Judge's decision is final.

Q. VIDEOTAPING / TAPE RECORDERS

1. A team will be permitted to videotape or tape record a trial only on the condition that
   (a) a team only tapes a trial in which it is competing;
   (b) the taping team offers to allow the non-taping team the opportunity to duplicate the tape as soon as possible; (within a maximum of 36 hours).
   Note: A team that does not have video taping equipment should bring a blank tape to provide the team that does video so that a copy can be made within the time limit.)
   (c) the taping must not disrupt the trial; and
   (d) the tape will be used solely for the personal use of the teams participating in that trial and will not be distributed to other teams or used for purposes of "scouting," including, without limitation, viewing of the tape by another team from the same school. However, after the final round of the competition, teams may use tapes for any purpose.
   (e) if either team objects to video or audio taping, both team's teacher coaches should advise the Trial Site Coordinator before the trial begins.
2. Violation of any of the conditions set forth in Paragraphs IV.Q.1.a-e may result in disqualification of a team and prevent advancement.
3. The Final Round of competition will be videoed.

V. JUDGING

A. DECISIONS

1. All decisions of the Presiding Judge, Scoring Panelists and Trial Site Coordinator are final.

B. TYPES OF DECISIONS RENDERED

1. Presiding Judges and Scoring Panelists will make the following decisions:
   (a) the Scoring Panelists will determine the better team presentation by assigning points to each student's performance.
   (b) the Presiding Judge and Scoring Panelists will determine the best witnesses and best attorneys for each trial.
2. The criteria for determining the better presentation is listed on the Scoring Panelists' scoring sheets.

C. PANEL

1. The judging panel will consist of two Scoring Panelists and one Presiding Judge. At least two members of the judging panel will be attorneys. If only one Scoring Panelist is available, the Presiding Judge will also score the competition.
2. Only the Presiding Judge will give an oral critique of both team's performance. The Scoring Panelists comments may be written on the Comment Form that will be distributed to the teams.

D. INFORMATION PROVIDED TO THE JUDGES

1. All Presiding Judges and Scoring Panelists will be provided with copies of the stipulations, the witness statements, the Rules of the Competition, the Simplified Rules of Evidence and specific orientation materials for judges.

VI. SCORING

A. RESULTS

1. Scores will ***NOT*** be announced by the Trial Site Coordinator at the end of the morning round. Teacher coaches will have the copies of their score sheets and the teacher coach will determine whether their team will be told their scores at that time. (Many teacher coaches have determined it to be detrimental for their team to be apprised of their scores before the next round takes place.)
2. C0pies of the score sheets will be provided to the teacher coaches following trial rounds on the day of the rounds. Each teacher coach must check the score sheets and verify their correctness before signing the sheets. Each teacher coach should have a calculator.
3. The winner of each trial in each competition round will be the team which has earned the highest number of percentage points.
4. A team's percentage point score is determined by dividing the points awarded the team by a panelists by the total points awarded both teams by the same panelists. The team's score for a trial is the sum of the two panelists percentage point score awarded the team.

5. When computing the percentage, the score will be rounded to the nearest hundredth percentage point, (e.g. .47346 or 47.35%). In order for the score to be rounded upward, the Scoring Panelists will look to determine if the third place to the right of the decimal (thousandth) and if that number is greater than five then the hundredth is rounded upward, otherwise the hundredth is not changed.
6. As a result of the rules on rounding, the sum of each team's percentage may exceed 100% by as much as two hundredths.
7. Two bonus points will be awarded to the team which has the highest aggregate team percentage in each trial. The bonus points will not be reflected on the Performance Rating Form completed by the Scoring Panelists. The Trial Site Coordinator will add the bonus points at the time the Master Score Sheet is completed.

Example

	Team A	Team B
Scoring Panelist #1	48.33%	51.67%
Scoring Panelist #2	49.13%	50.87%
	97.46%	102.54%
	0.00	+ 2.00
	97.46%	104.54%

NOTES

B. SCALE

Not Effective		Fair		Good		Excellent		Outstanding	
1	2	3	4	5	6	7	8	9	10

C. SCORING PROCEDURE

1. The scoring procedure begins with the first round–Qualifying Round.
2. No scores are reported or recorded for the preliminary rounds (scrimmages).
3. Scores are **NOT** cumulative from one level of the competition to the next.
4. The following is an example of the tabulation page of a Scoring Panelists scoring sheet:

EXAMPLE OF SCORING SHEET======= Scoring Panelist #1

ASSESSMENT OF PENALTY POINTS

Infraction as observed or reported and verified	*Penalty*	*PROSECUTION-PLAINTIFF*	*DEFENSE-DEFENDANT*
1. Overtime	One (1) point for each One half (½) minute over 55 minutes	0	0
2. Same Attorney giving Opening & Closing	20 points	0	0
3. Different Attorney examining witness and making objections.	4 points	0	0
4. Rules Violation	Discretion of Judge	0	0
TOTAL PENALTY POINTS		0	0

FINAL SCORING	*PROSECUTION-PLAINTIFF*	*DEFENSE-DEFENDANT*
1. TOTAL POINTS: Page 1	87	93
2. TOTAL POINTS AWARDED BY PANELIST (Add Prosecution/Plaintiff and Defense/Defendant points)	180	
3. TOTAL PENALTY POINTS **MINUS**	0	0
4. ADJUSTED TEAM POINTS (Line 1 – Line 3)	87	93
5. PERCENTAGE SCORE (Line 4 ÷ Line 2)	48.33 %	51.67 %

CHECKED BY _____
Teacher Coach School Date

CHECKED BY _____
Teacher Coach School Date

CHECKED BY _____
Trial Site Coordinator Date

D. PENALTY POINTS

1. Each Scoring Panelist will deduct one (1) point from a team's score for each one-half minute (½) of time that exceeds the 55 minute time limit. Partial minutes will be rounded to the nearest half. For purposes of rounding, thirty-one seconds and greater will be rounded upward.
2. Each Scoring Panelist will deduct twenty points from a team's score if the same attorney gives both the opening statement and the closing argument.
3. Each Scoring Panelist will deduct four points from a team's score if the attorney examining a particular witness, either on direct or cross-examination, is not the attorney who makes objections when that same witness is being examined by opposing counsel.
4. Upon hearing a grievance report by the Presiding Judge and/or Trial Site Coordinator concerning a team's alleged rules violations, each Scoring Panelist will follow point deductions as specified in the Rules of Competition.
5. Each Scoring Panelist will deduct ten (10) points from a team's score for each violation of the Rule IV.N on contact/communication between teacher coaches, attorney coaches and spectators during the trial.

VII. ADVANCEMENT

1. Teams will advance in the following manner:
   (a) the highest scoring team from each qualifying round will advance, subject to Rule VII.2, to the quarter final round; the remaining teams necessary to fill the quarter final round will be identified by the highest scoring teams from all sites.
   (b) if only one team in a quarter final round wins both morning and afternoon session, that team will automatically advance to the semi-final round, regardless of the scores; in the event, however, that two teams, at the same quarter final round, each win both their morning and afternoon session, whichever of those two teams has the highest score will advance to the semi-final round;
      (1) participants are advised that thirty-two teams participate in the quarter final rounds and only eight participate in the semi-final rounds. Accordingly, it is possible that a team could win both the morning trial and the afternoon trial and not advance into the semi-final rounds due to the operation of Rule VII(1)(b).
   (c) if no team in a quarter final round wins both their morning and afternoon sessions, the team with the highest score will advance to the semi-final round.
   (d) if only one team in a semi-final round wins both its and morning and afternoon session, that team will automatically advance to the final round, regardless of the scores; in the event, however, that two teams, at the same semi-final round, each win both their morning and afternoon session, whichever of those two teams has the highest score, will advance to the final round;
      (1) participants are advised that eight teams participate in the semi-final rounds and only two participate in the final round. Accordingly, it is possible that a team could win both the morning trial and the afternoon trial and not advance into the final round due to the operation of Rule VII(1)(d).
   (e) if no team in the semi-final round wins both their morning and afternoon sessions, the team with the highest score will advance to the final round.
   (f) the highest scoring team from the final round will advance to the National Mock Trial Competition.

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2. In the event that the number of teams competing in the competition does not completely fill the qualifying round bracket, a team in the area (preferably a first-year team with a first-year teacher coach) may, at the sole discretion of the Mock Trial Executive Committee, be given the opportunity to participate in another trial round so that the bracket is completely filled. A team that agrees to "fill-in" during the Qualifying Round will be given the option, at the time they agree to serve as the "fill-in," to choose to have the score from either: (1) their first day of competition (whether it was their originally assigned day or the "fill-in" day) or (2) the average of both days (originally assigned day and "fill-in day"). Whichever option was chosen by the school will count as the school's score to determine advancement.
3. If for any reason, a team draws a bye or wins by default, that team will be awarded points equal to the average of all winning teams' points in that same round competing at the same site.
4. Teams withdrawing from the competition before completing all competition rounds to which they have advanced will not be eligible to receive awards.
5. In order to determine which team will represent the prosecution/plaintiff and which team will represent the defense/defendant side during the final round of competition, the highest scoring of the two teams will be assigned "heads" in a coin toss that will be conducted by the Mock Trial Coordinator prior to the date of the competition. When the coin is tossed, the team whose side of the coin comes up gets to select either prosecution/plaintiff or defense/defendant for the final round. Before the coin toss, both teams must submit (probably by FAX) a final "team roster" for both their prosecution/plaintiff and defense/defendant teams, with the understanding that no changes can be made after the coin toss.

VIII. RECOGNITION

1. All students who participate on a team will receive a certificate.
2. Recognition will be given to the best attorney and best witness for each team at each trial. Certificates for best attorney and best witness will be included with the certificates at the end of the competition. Teacher coaches are responsible for keeping an accurate record of their team's winners.
3. The top eight teams will receive an award (plaque or trophy).
4. Additional individual awards will be presented to each team member in the final round.
5. Second, third and fourth year participants will also receive special recognition.

NOTES

In cooperation with the
Young Lawyers Division

OKLAHOMA HIGH SCHOOL
MOCK TRIAL PROGRAM
Oklahoma Bar Center
P.O. Box 53036
Oklahoma City, OK 73152

Oklahoma Bar Foundation

EXPLANATION OF PERFORMANCE RATING FORM

POINT(s)	PERFORMANCE	CRITERIA FOR EVALUATING STUDENT PERFORMANCE
1 - 2	Not Effective	Unsure of self, illogical, uninformed, not prepared, speaks incoherently, definitely ineffective in communication.
3 - 4	Fair	*Minimally* informed and prepared. Performance is *passable* but lacks depth in terms of knowledge of task and materials. Communications lack clarity and conviction.
5 - 6	Good	Good, solid, but less than spectacular performance. Can perform outside the script/notes, but *less* confidence than when using script/notes. Grasps major aspects of the case, but does not convey mastery of same. Communications are clear and understandable, but could be stronger in fluence and persuasiveness.
7 - 8	Excellent	Fluent, persuasive, clear and understandable. Organizes materials and thoughts well and exhibits mastery of the case and materials.
9 - 10	Outstanding	Superior in qualities listed for 7 - 8 points' performance. Thinks well on feet, is logical, keeps poise under duress. Can sort out essential from the nonessential and use time effectively to accomplish major objectives. Demonstrates the unique ability to utilize all resources to emphasize vital points of the trial.

FACTORS TO CONSIDER IN SCORING

OPENING STATEMENTS
Provided a case overview; mentioned the key witnesses; stated the relief requested; provided a clear and concise description of their case

DIRECT/REDIRECT EXAMINATION
Used properly phrased questions (who, what, where, when, how); used proper courtroom procedure; demonstrated understanding of issues and facts; proper introduction of evidence; defended and raised objections in clear concise terms; used time effectively; courteous to opponent; complied with all Rules of the Competition and spirit of fair play

CROSS/RECROSS EXAMINATION
Used leading questions; used proper courtroom procedure; properly impeached witnesses, if appropriate: demonstrated understanding of issues and facts; proper introduction of evidence; defended and raised objections in clear concise terms; used time effectively; courteous to opponent; complied with all Rules of the Competition and spirit of fair play;

WITNESSES
Credible; understood facts; spoke distinctly; responded spontaneously to direct/redirect and cross/recross; poised and observed courtroom decorum

CLOSING STATEMENT
Summarized the evidence, emphasized the supporting points of their own case and damaged the opponent's; concentrated on the important, not the trivial; reviewed specific relief or judgment requested.

TEAM PERFORMANCE*
Team members performed as a cohesive group; showed respect for the court; exhibited courtesy to each other and members of the opposing team; displayed respect for the Judge, Scoring Panelists and courtroom; reflected integrity in complying with the Rules of Competition and spirit of fair play; acted professionally

***No ties are allowed for Team Performance category**

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OKLAHOMA HIGH SCHOOL
MOCK TRIAL PROGRAM
Oklahoma Bar Center
P.O. Box 53036
Oklahoma City, OK 73152

OBF
Oklahoma Bar Foundation

PERFORMANCE RATING FORM

Date_____ Round (Circle one) Qualifying - Quarter Finals - Semi-Finals - Finals

Prosecution/Plaintiff_____ (Team Code) ***Defense/Defendant***_____ (Team Code)

On a scale of 1 to 10 rate the teams for Prosecution/Plaintiff and Defense/Defendant in the categories below, recording one score in each blank box. DO NOT use fractional points.

Not Effective 1 2 3 Fair 4 5 Good 6 7 Excellent 8 9 Outstanding 10

		Prosecution/Plaintiff	Defense/Defendant
OPENING STATEMENTS		→	→
Prosecution/Plaintiff	Direct Examination by Attorney (P)	→	
First Witness	Cross Examination by Attorney (D)		→
Name:	Witness' Performance (P)	→	
Prosecution/Plaintiff	Direct Examination by Attorney (P)	→	
Second Witness	Cross Examination by Attorney (D)		→
Name:	Witness' Performance (P)	→	
Prosecution/Plaintiff	Direct Examination by Attorney (P)	→	
Third Witness	Cross Examination by Attorney (D)		→
Name:	Witness' Performance (P)	→	
Defense/Defendant	Direct Examination by Attorney (D)		→
First Witness	Cross Examination by Attorney (P)	→	
Name:	Witness' Performance (D)		→
Defense/Defendant	Direct Examination by Attorney (D)		→
Second Witness	Cross Examination by Attorney (P)	→	
Name:	Witness' Performance (D)		→
Defense/Defendant	Direct Examination by Attorney (D)		→
Third Witness	Cross Examination by Attorney (P)	→	
Name:	Witness' Performance (D)		→
CLOSING ARGUMENTS	(and rebuttal, if any)	→	→
SUBTOTAL		(	(
TEAM PERFORMANCE (1 - 10)	***(No tie scores are allowed on this item)***	→	→
TOTAL TEAM POINTS	(Maximum 120 per side--NO TIES allowed)	☆	☆

_____ Scoring Panelist's Signature

_____ Teacher Coach's Signature

_____ Teacher Coach's Signature

Please give all copies of this score sheet to the Trial Site Coordinator.

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MOCK TRIAL PROGRAM
Oklahoma Bar Center
P.O. Box 53036
Oklahoma City, OK 73152

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Oklahoma Bar Foundation

PERFORMANCE RATING FORM

Date:_____ Round *(Circle one)* Qualifying - Quarter Finals - Semi-Finals - Finals

Prosecution/Plaintiff_____ ***Defense/Defendant***_____
(Team Code) (Team Code)

Scoring Panelist No._____ Trial Site_____

ASSESSMENT OF PENALTY POINTS

-Infraction as observed or reported and verified	*Penalty*	*PROSECUTION/ PLAINTIFF*	*DEFENSE/ DEFENDANT*
1. Overtime	One (1) point for each One half (½) minute over 55 minutes	_____	_____
2. Same Attorney giving Opening & Closing	20 points	_____	_____
3. Different Attorney examining witness and making objections.	4 points	_____	_____
4. Rules Violation	Discretion of Judge and/or Scoring Panelist	_____	_____
TOTAL PENALTY POINTS		_____	_____

FINAL SCORING	***PROSECUTION/PLAINTIFF***	***DEFENSE/DEFENDANT***
1. TOTAL POINTS: Page 1	_____	_____
2. TOTAL POINTS AWARDED BY PANELIST (Add Prosecution/Plaintiff and Defense points)	_____	
3. TOTAL PENALTY POINTS **MINUS**	–_____	–_____
4. ADJUSTED TEAM POINTS (Line 1 – Line 3)	_____	_____
5. PERCENTAGE SCORE (Line 4 ÷ Line 2)	_____%	_____%

CHECKED BY:_____
Teacher Coach School Date

CHECKED BY:_____
Teacher Coach School Date

CHECKED BY:_____
Trial Site Coordinator Date

REVIEW OF PENALTY POINTS

1. Each Scoring Panelist will deduct one (1) point from a team's score for each one-half minute (½) of time that exceeds the 55 minute time limit. Partial minutes will be rounded to the nearest half. For purposes of rounding, thirty-one seconds and greater will be rounded upward.
2. Each Scoring Panelist will deduct twenty (20) points from a team's score if the same attorney gives both the opening statement and the closing argument.
3. Each Scoring Panelist will deduct four (4) points from a team's score if the attorney examining a particular witness, either on direct or cross-examination, is not the attorney who makes objections when that same witness is being examined by opposing counsel.
4. Upon hearing a grievance report by the Presiding Judge and/or Trial Site Coordinator concerning a team's alleged rules violations, each Scoring Panelist will follow point deductions as specified in the Rules of Competition.
5. Each Scoring Panelist will deduct ten (10) points from a team's score for each violation of the Rule IV.N on contact / communication between teacher coaches, attorney coaches and spectators during the trial.

Oklahoma High School Mock Trial Program

SUGGESTIONS FOR STUDENT PARTICIPANTS

I. Opening Statements
II. Presenting Evidence
  A. Direct Examination
  B. Cross Examination
III. Objections
IV. Physical Evidence/Exhibits
V. Redirect/Recross
VI. Closing Arguments
VII. Witness Statements
VIII. Role of the Bailiff
IX. Timekeeping

This outline provides various techniques and tips to be followed in preparing for a mock trial. Included are suggestions for both the preparation before trial and the presentation at trial. These are general guidelines and are not be interpreted as rules of the competition, unless otherwise designated.

I. Opening Statements

Purpose:	To introduce yourself and your client. To acquaint the audience with the nature of the case. To outline what you are going to prove through witness testimony and the admission of evidence.
Preparation	Write a short summary of the facts. Determine the burden of proof (the amount of evidence needed to prove a fact and who has it in this case). Develop a clear and concise overview of each witness and the physical evidence you will present. Judge how each will contribute to proving your case. Learn your case thoroughly.
Presentation	Stand before the scoring panelists. Introduce yourself and your colleagues. Make eye contact with the presiding judge and scoring panelists. Appear confident in what you are saying. Outline the case from your point of view. Use the future tense in describing what you will do (e.g., "The facts <u>will</u> show...") Mention testimony of key witnesses. Tell what relief you are requesting.

Avoid: Too much narrative about witness testimony.
Exaggeration and overstatement of facts that may not be proven.
Promising to prove something you will not or are not able to prove.
Reading your whole statement.
Repeating undisputed facts.

II. PRESENTING EVIDENCE

DIRECT EXAMINATION:

Purpose: To obtain favorable information from your witnesses to prove your case facts.

Preparation: Learn the case inside out. Study your witness statements. Look for all the good points that are favorable to your case.
Prepare a series of questions based on these good points. Know the questions that your attorney will ask you on direct examination and prepare clear and convincing answers that contain the information that the attorney is trying to elicit from your testimony.
Avoid leading questions (except for questions that pertain to name, address, etc.).
Regarding expert witnesses, do not ask questions until you have laid the proper foundation to qualify the witness as an expert.
Practice questioning your witnesses until they respond spontaneously.

Presentation: Stand behind the podium except when introducing evidence.
Attorney & Witness An appearance of confidence and trustworthiness is important.
Be sure the testimony is consistent with the facts set forth in witness statements.
Avoid annoying distractions such as attorneys leaning on the podium or witnesses rocking back and forth. while questioning or testifying
Be relaxed and clear in the presentation of your questions and answers.
Keep to simple questions and answers that you have practiced with your witnesses.
Listen to the complete questions and answers.
Keep eye contact between attorney and witness, but also occasionally look at the presiding judge and scoring panelists.
Don't be afraid to be a little animated. Speak as though you believe what you are saying.
Be able to think quickly if the witness gives you an unexpected answer and ask another short follow-up question to be sure you obtained the testimony you wanted.
When your facts are in, cease questioning.

Avoid: Wasting time asking questions that are not pertinent.
Complex and verbose questions.
Redundant and monotonous questions.
Eliciting conclusions.
Too much narrative which can be dangerous if you lose control of witness testimony.

CROSS-EXAMINATION:

Purpose: To discredit the witness, and to make the other side's witness less believable.
To discover flaws in his/her testimony.
To secure admissions which help your case.

Preparation Study all opponent's witness statements. Look for all the points that are not favorable to your case and consider them when formulating your questions.
Prepare a series of questions based on these points.
Try to anticipate how each witness will answer your questions so that you can adapt your questions during trial according to what is actually said.

Witnesses should anticipate what will be asked on cross examination and prepare answers accordingly.
Isolate all the possible weaknesses, inconsistencies and problems in your testimony and be prepared to explain them.
Prepare short questions using easily understood language.
Attorneys must only ask questions to which the attorney already knows the answer.

Presentation: *Attorney & Witness*
Be relaxed and ready to adapt your prepared questions to the testimony that is actually heard during the direct examination.
Listen with care to the answers of the witness. Witnesses must be sure that testimony is consistent with the witness statement.
Attorneys should only ask leading questions that require only a "yes" or "no" answer whenever possible.
Ask questions on important points that will raise doubts about the credibility of a witness. If a witness has not been truthful, ask the witness to identify his/her statement and then read that portion of the statement which is contrary to what he/she just said.
Pose questions that weaken the testimony of the witness by showing his/her opinion is questionable such as a witness with poor eyesight claiming to have observed all the details of a fight that took place 500 feet away in a crowd.
Ask questions that show that a witness who has testified to an opinion is not competent or qualified due to lack of training or experience such as a psychiatrist testifying to the need for dental work or a high school graduate testifying that in his/her opinion the defense/defendant suffers from a chronic blood disease.
If witnesses make an incorrect statement during direct examination that was not caught, the witness should not be afraid on cross to admit the mistake.
Witnesses must not volunteer information. If a question calls for a simple answer, give the answer and stop, even if there is an uncomfortable silence before the next question. Do not feel that as a witness it is your duty to explain away testimony that the opposing counsel has made to appear bad for your side, that is the job of your attorney on redirect. The attorney will come back on redirect and clear up any areas that need further explanation or clarification.
Witnesses must remember that cross examination can be tough, so do not get flustered. A witness who can respond well during cross can give the team some well earned points.

Avoid:
Attorneys should not give the witness the opportunity to reemphasize the strong points made during direct examination.
Quarreling, harassing, intimidating or showing hostility toward the witness, judges usually resent it.
"Fishing" expeditions which give the witness a chance to clarify damaging statements. When you have a favorable answer, drop the matter and wait for closing arguments to emphasize it.
Allowing the witness to explain anything. Try to stop the witness if his/her explanation is going on and hurting your case by saying, "Thank you. You've answered my question." If the witness continues and you have difficulty cutting the witness off, you may ask the judge to admonish the witness to not volunteer information not asked for.

III. OBJECTIONS

Purpose:
To present to the presiding judge a rule of evidence which would bar an answer to the questions asked or result in striking the answer from the record, if already given.

Preparation:
Practice both making and responding to objections.

Presentation:
Rise to address the presiding judge.
Upon the raising of an objection, opposing counsel should immediately be prepared to respond to the objection, arguing why it should be overruled.

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IV. PHYSICAL EVIDENCE/EXHIBITS

Purpose: To provide information that may be referred to in detail and parts read in court.

Presentation: Ask the presiding judge if you can approach the bailiff so the exhibit can be marked for identification.
(Exhibits may be premarked -thereby allowing the attorney to refer to "What has been premarked as *Prosecutions Exhibit 1.*)
Show the exhibit to opposing counsel.
Request permission from the presiding judge to approach the witness.
Hand the exhibit to the witness and walk back to the podium.
Remind the presiding judge if any of the stipulations establish part of the necessary foundation for the exhibit.
Ask the presiding judge if you can approach the witness to retrieve the exhibit.
Request permission to approach the bench.
If permission is granted, do so and hand the exhibit to the bailiff and ask that it be admitted into evidence.

V. REDIRECT/RECROSS

Purpose: To rehabilitate a witness or repair damage done by your opponent.

Presentation: Standing at the podium.

NOTE: At the conclusion of evidence by both sides and in response to the judge's request for any additional evidence, the prosecution/plaintiff states "The prosecution/plaintiff rests its case Your Honor." The defense/defendant states "The defense/defendant rests its case Your Honor."

VI. CLOSING ARGUMENTS

Purpose: To summarize your case.
To put the pieces together for the scoring judges.
To point out credibility, bias, self-interest or prejudice of witnesses.
To be an advocate for your client.

Preparation: Organize in advance by anticipating your opponent's arguments.

Presentation: Stand facing the scoring panelists.
Make eye contact with the scoring panelists and the presiding judge.
Point out testimony which supports your case.
Point out testimony which damages your opponent's case.
Simply state your case until you are sure it is fully understood.
Discard the unimportant and only argue what you feel is important.
Correct any misunderstandings that the scoring panelists may have.
Be relaxed and ready for interruptions if a scoring panelists ask questions.
Always be flexible by adjusting your statement to the weaknesses, contradictions, etc., in the other side's case that actually came out at the trial.
Believe in your point of view.
Be dynamic. This is high drama. Take advantage of it.

Avoid: Assuming the scoring panelists have understood the impact of all of the testimony.
Using ridicule, except with caution; for while it can be effective, it is also dangerous.
Confusing or illogical arguments.
Weak words such as "We believe" and We think."
Asking the scoring panelists to put themselves in your client's position.
Overt appeals for sympathy and prejudice of scoring panelists.
Reading the whole statement.

NOTE. The prosecution's/plaintiff's rebuttal is limited to the scope of the defense's/defendant's closing argument.

VII. WITNESS STATEMENTS

General Suggestions:

If you are to testify about records, familiarize yourself with them before trial.
Do not memorize what you will say in court, but try to recall just what you observed at the time of the incident. (Picture it in your mind as if you were there!)
When called to the stand, be as relaxed and in control as you possibly can be.
If asked if you have discussed the case with anyone, indicate any occasion when you have talked with your attorney in preparation for trial.
Speak clearly so you will be heard. The judge and scoring panelists must hear your answer. Do not respond by shaking your head "yes" or "no."
Listen very carefully to questions. Before you answer, make sure you understand what has been asked. If you do not understand, ask that they be repeated.
Do not give your personal opinions or conclusions when answering questions unless asked to do so. Give only the facts as you know them, without guessing or speculating. If you do not know, say you do not know.
If you answer a question incorrectly, ask the presiding judge if you may correct it.
If the presiding judge interrupts or an attorney objects to a question you answer, stop talking immediately.
Do not resume until the presiding judge tells you to do so. After the court hears arguments and rules on an objection, the presiding judge will instruct you to answer or not to answer the question asked.
Be polite while answering questions and do not lose your temper.
Be courteous to attorneys and the presiding judge.
When answering a question from the presiding judge say, "Yes, your Honor" or "No, your Honor."
If the presiding judge rules against your on an objection, take the ruling gracefully.
Argue the objection to the presiding judge, not the opposing counsel.

VIII. ROLE OF THE BAILIFF

The bailiff opens court by saying:

"All rise. Court of _____ County is now is session. The Honorable _____ (Judge's name) presiding." Typically the presiding judge will seat himself and then instruct the audience to be seated. The bailiff will announce "The Court will now hear the case of _____ v. _____."

The bailiff closes court by saying: "Court is now in recess."

The bailiff will swear in all witnesses by approaching the witness (who is in the witness box), holding up his/her right hand, and saying, "Please raise your right hand. Do you solemnly (swear) or (affirm) that the testimony you are about to give is the truth, the whole truth and nothing but the truth?"

The bailiff will mark all exhibits presented during the course of the trial. If an attorney asks that the bailiff mark the exhibit as "Exhibit 1," the bailiff will simply write "1" on the exhibit sticker if there is one, if not, simply write directly on the exhibit in the upper right corner.

IX. TIMEKEEPING

Each team must provide a student to serve as official timekeeper.
Each timekeeper is provided with a form to record time for each presentation during the trial.
Timekeepers should sit together in the jury box if the courtroom facilities allow, if not, they should be inside the bar (not in the spectators sections).

STRATEGY ANALYSIS - LESSON PLAN FOR TEACHER OPENING STATEMENTS

A. Main arguments in favor of each side
B. Facts that support/weaken each major argument
C. Evidence for each side
D. Opening statements

ACTIVITIES

ASSIGNMENTS -

Sides of the Case

Assign students to prosecution/plaintiff or defense/defendant teams. Specific role assignments (attorney, witness) need not be given yet. However, having a particular point of view will help the students engage in strategic case analysis. Once students are divided into prosecution/plaintiff and defense/defendant teams, team captains might be designated by appointment or election. These students could help lead small group discussions and help direct case preparation.

Strategic Analysis by Teams

Split the students into two team groups (prosecution/plaintiff and defense/defendant). Each team should discuss the following:

A. What does our side want to achieve in the case?
B. How will we accomplish this goal?
C. What evidence do we have to help us?
D. What evidence do we have that hurts us?
E. What can we claim we will prove in the opening statement?

Team Brainstorming for Opening Statements

Brainstorm and focus on:

A. What are the most important facts we want to tell in our opening?
B. What evidence will we present that we should stress?
C. What kind of ruling do we want from the judge?
D. How will we ask for that?

Homework

Students should bring their individual opening statements. Each student should have a chance to present their prepared statement to the team. The team should decide which statement is best or which portions of various statements might be used in combination.

***NOTE*: Be sure the students are very familiar with the facts of the case *BEFORE* your Attorney Coach arrives. The Attorney Coach must not be expected to teach the students the case. They can best assist you and the team when all team members are prepared and know the facts.**

PREPARATION OF PROSECUTION/PLAINTIFF & DEFENSE/DEFENDANT CASES WITNESS EXAMINATIONS & CLOSING ARGUMENTS

A. Logical sequence of direct/cross examination questions designed to achieve purpose of witness examination.
B. High points of ideal closing arguments
C. Important points made in the witness affidavit.
D. Correct witness responses to questions

Role Assignments

The teacher coach should assign students to specific roles required in the trial materials . Alternates should also be appointed for each role.

Reading Assignment

Students should read *ALL* the case materials again and study the particular parts of the case materials applicable to their assigned roles.

Small Group Preparation

Separate the class into prosecution/plaintiff and defense/defendant teams:

Role	Prosecution/Plaintiff -	Defense/Defendant
Witnesses/Alternates	P1	D1
Examining Attorneys	P2	D2
Attorneys/Opening/Closing	P3	D3

P1 and D1
Drill students on their knowledge of the facts and their witness statements. By taking turns drilling each other, team members will acquire information about all other witness statements. Witness #1 is the first to be drilled. Starting with "State your name, please" and proceeding through the witness statement. Witness #1 is asked every conceivable question by other students in the group. Witness #2 and #3 go through the same process and then the alternates follow. The questioning drill continues around the circle until each student can answer the questions without looking at his/her statement.

Once the initial knowledge is acquired, the Witness Group should focus on style and characterization. Going around the circle again, the students should help each other try to develop a specific type of character and responses to fit their roles.

P2 and D2
During This session, the attorneys conducting each direct examination begin designing the questioning strategy for each witness in consultation with the other attorneys in the group. The group should start with Witness #1, and, as a group, outline the basic series or direct exam questions needed for that witness. They then do the same for Witness #2 and #3. Attorneys should write out the examination questions for homework.

P3 and D3
This group should brainstorm the main points to be included in opening statements and closing arguments. After the outlines are planned together, the students then work independently to write the statements. These can also be drafted for homework. Once the statements are written, the students reconvene to hear and critique each other's statements.

Small Group Preparation

Rehearse and refine case presentation:

Role	Prosecution/Plaintiff	Defense/Defendant
Attorneys/Opening Closing	P1	D1
Witnesses/Direct Exam Attorneys	P2	D2
Cross Exam Attorneys	P3	D3

P1 and D1
Each attorney delivers the prepared statement. The others in the group critique.

P2 and D2
Using the direct examination questions developed earlier, the attorneys rehearse the examinations with the witnesses and make changes as necessary.

P3 and D3
Attorneys responsible for cross examination for each side can assist each other in trying to project what testimony might be given on direct examination, thus showing what material might be appropriate for cross examination. Attorneys can develop a series of possible cross examination questions and ask each other the questions to see how they will work. Students must remember that they may have to alter their prepared materials based on what happens in the direct examination.

RULES OF EVIDENCE AND PROCEDURE

A. Purpose of the rules of evidence
B. Leading questions, hearsay, irrelevant testimony, opinions
C. Proper objections to violations of the rules of evidence
D. Responding to an objection
E. Correctly introducing pieces of evidence

Reading Assignment	**Read as homework or aloud in class.**
General Discussion	What is the purpose of rules of evidence? What might happen without them? What are specified rules of procedure in daily life?
Discussion of Examples	Take each rule of evidence and ask for an example of a rule violation, other than the ones given in the materials. What harm would come if the particular rules did not exist? Is this a useful rule? Are the rules given sufficient to make the trial fair? What rules would the class add?
Team Drill	Return to prosecution/plaintiff and defense/defendant teams. Ask one attorney to start direct questioning of a witness in the case being prepared. All others in the group listen for violations of rules of evidence and make objections as appropriate.
Individual Drill	On the chalkboard, write the steps for introduction of physical evidence. Drill each attorney individually.
Discussion of Impeachment	Ask students for their understanding of the idea of impeachment. Discuss how the concept is applied in a trial to shake the credibility of a witness. For homework, ask each attorney witness team to develop one example of possible impeachment for that witness. Demonstrate examples in class.

REVIEW - Rules of Evidence Hypotheticals

A. Doug told me he killed his brother and Doug is on trial for the murder. Should I be able to testify to what he told me?

B. During direct examination, the attorney wants to show that the witness, David, was at school on November 30. Can he ask, "You were at school on November 30, isn't that correct?"

C. Same situation as in B. Can the attorney ask David, "Where were you on November 30?"

D. Harry is being sued in a civil trial for breach of contract. Can the plaintiff introduce evidence that Harry has been unfaithful to his wife?

E. Can Harry's unfaithfulness to introduced in a contested divorce case?

F. John made a sworn statement two days after the automobile accident he had witnessed. When the case finally comes to trial and he is called as a witness, John cannot remember what happened. Can his attorney show John the statement that may help him remember? Must the attorney introduce the statement into evidence?

G. Same situation as in F, only John does remember and testified on direct examination. However, his testimony contradicts his earlier sworn statement. On cross examination, can the other attorney bring up the inconsistencies?

H. Mary is in a car accident and she sues the other driver. On her direct examination, damage to the car is never mentioned. Can the defense, on cross examination, ask about the repair costs of the car?

I. Herb is a doctor. The attorney has Herb testify to this when Herb is on the stand. Can Herb testify that in his expert opinion, the victim was suffering from a fracture of the right leg?

J. Can Joe, a plumber who worked with the victim, testify that the victim was suffering from a fracture of the right let?

K. Kevin has never seen Amy with her baby. Can Kevin testify that Amy is a terrible Mother?

ANSWERS - to the Rules of Evidence Hypotheticals

A. This is allowed as a statement by a party (the defendant here) as an exception to the general rules against hearsay. The defendant is present and can deny having made the statement.

B. This is a leading question as it has the answer the attorney wants in the question and cannot be asked on direct examination. It could be asked on cross examination.

C. Yes, this is not leading.

D. No, this is not relevant to the contract issue.

E. Yes, this may be relevant to issues in a divorce case.

F. Yes, if the witness could not remember he may be shown a written statement to refresh his recollection.

G. Yes, this is proper, to impeach the credibility of a witness.

H. No, on cross examination an attorney may only bring up issues raised on direct examination; this is called a question outside the scope of the direct examination.

I. Yes, if Herb is first certified as an expert witness through being questioned about his prior training and experience.

J. No, not as an expert, but he can testify to the fact that the victim appeared to be in pain or to other facts from his direct observation.

K. No, one can testify only to things one knows from direct knowledge.

REVIEW - The Evidence Cases

These examples will help the students recognize improper questioning in a trial. They will also understand the rationals better behind evidentiary rules. They will get valuable practice in conducting proper introductions of evidence. Attorney coaches can be invaluable source of assistance here.

Assign eleven witness and eleven attorney roles. Duplicate two copies of the Cases below. Cut the Cases apart. Only each lawyer gets the entire slip. For the eleven students who who act as witnesses, black out or cut off the lawer part that describes the lawyer's job so the witness will not have advance knowledge of what the lawyer is going to try. Students should not disclose their roles to other students. The teacher calls out the Case number at random and reads the facts postion (at the top) to the entire class. Participants perform as intructed on the slip. Other students observe and make objections. Objections must be explained. Rephrasing is proper. These are only a few examples, you will probably want to expand on these and add your own to extend the exercise to meet your needs. In each of the examples asking for a questions from an *INEFFECTIVE LAWYER* you can then use the same Case and ask for rephrasing to be an *EFFECTIVE LAWYER.*

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1. **The Case:** A delinquency proceeding in juvenile court resulting from serious assault on a student on a school playground.

   The witness on the stand: The mother of the Victim.

   Your job as an **ineffective** lawyer: Ask the witness a **HEARSAY** question.

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2. **The Case:** A dispute over the amount of money owed under a written contract.

   The witness on the stand: One of the parties to the contract.

   Your job on an **effective** lawyer: You want to have the written contract introduced into evidence as an **EXHIBIT**. Ask the witness questions to identify the contract and move the exhibit into evidence.

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3. **The Case:** A lawsuit brought by a woman who fell on spilled pickle juice at 9:30 p.m. in a grocery story.

   The witness on the stand: The plaintiff (the woman who fell).

   Your job as an **ineffective** lawyer. Ask the witness an **IRRELEVANT** question.

4. **The Case:** A medical malpractice suit - a doctor prescribed medicine for a pregnant woman and the baby was born retarded.

The witness on the stand: The father of the child.

Your job as an **ineffective** lawyer. Ask the witness an objectionable **OPINION** question.

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5. **The Case:** A contested marital dissolution (divorce) in which the wife is accused of being a chronic alcoholic.

The witness on the stand: The wife.

Your job as an **ineffective** lawyer: **BADGER** the witness with questions.

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6. **The Case:** A dispute over the custody of two children.

The witness on the stand: The mother of the children.
(She is being questioned by her lawyer.

Your job as an **ineffective** lawyer: Ask your client on the stand a **LEADING** question.

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7. **The Case:** A department store sues a customer for failing to pay the bill.

The witness on the stand: The customer.

Your job as an **ineffective** lawyer: Ask the witness an objectionable question about his **CHARACTER**.

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8. **The Case:** Criminal trial for purse snatching.

The witness on the stand: An eyewitness testifying for the defense; she just testified that the defendant looks like the person who committed the crime.

Your job as an **effective** lawyer: **IMPEACH** (destroy the credibility of your witness.

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9. The Case: A criminal trial for burglary; the defendant claims he was in Florida on the day of the crime.

The witness on the stand: The defendant.

Your job as an **ineffective** lawyer: Ask the witness an objectionable **CHARACTER** question.

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10. The Case: A suit for emotional distress suffered by a man who found a dead mouse in his soda.

The witness on the stand: The man who found the mouse.

Your job as an **ineffective** lawyer: Ask the witness **BADGERING** questions.

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11. The Case: A dispute between a customer and a TV seller resulting from the failure of the seller to repair the set.

The witness on the stand: The consumer.

Your job as an **ineffective** lawyer: Ask the witness a **HEARSAY** question.

DEBRIEFING

After each mock trial and trial simulations, it is important for the team to discuss the proceedings. This is known as "debriefing." It is designed to put the mock trial into perspective by relating it to processes of the American court system. The discussion should focus on a review of the legal issues in the trial and courtroom procedure, as well as broader questions about our trial system.

Questions and topics for discussion or to be completed as written assignments--

- **Were the procedures used fair to both of the parties?**
- **Were some parts of the trial more important than others?**
- **Did either side forget to introduce any important evidence?**
- **Could either side have been more effective or successful in their direct or cross examination of the witnesses?**
- **Was justice achieved?**
- **What were the strong points of each case presented in the trial.**
- **What were the weak points of each case presented?**
- **How could weak points have been avoided?**
- **Who were the persons whose performance made a difference in the case?**
- **Were the attorneys prepared correctly?**
- **Were objections pertinent and on target?**
- **Did each side achieve its goal? Why or why not.**
- **If the goal was achieved, could it have been accomplished in a different manner?**

Source: Materials adapted from the Illinois Mock Trial Program and *Street Law Mock Trial Manual.*

OKLAHOMA HIGH SCHOOL MOCK TRIAL PROGRAM

EVIDENCE EXAMPLES

I. Hearsay and Relevance/ Prior Bad Acts and Character

A. Hearsay

1. Joe is a witness testifying for the State of Oklahoma in a murder trial. As the State's first witness, Joe testifies that Sheila told him that she saw the defendant kill the victim of the case. Sheila is not testifying at trial. The statement is being offered to show that the defendant killed the victim. Hearsay?

   Answer Yes, this is inadmissible hearsay that does not fall under any recognized exception to the hearsay rule. It is a statement offered into evidence made by an out of court declarant (Sheila) that is being offered to prove the matter of what it asserts (that the defendant killed the victim).

2. Joe is was inside a grocery store shopping when it was robbed. The assailants escape from the scene just as the police arrive. Joe runs up to the police and exclaims in a highly excited state, "It was Linda Jones who robbed the store!!!" This statement is offered by the police officer to show that Linda Jones robbed the store. The declarant, Joe, died of a stroke ten days later. Hearsay?

   Answer Yes, this is hearsay because it is an out-of-court statement offered to prove the matter that it asserts, that Linda Jones robbed the grocery store. However, it is admissible under the excited utterance exception to the hearsay rule.

3. Joe is walking along a sidewalk with Martha in New York City. Jim White walks up behind them and says, "Look!! can you believe how fast that guy on the skateboard is moving?" The guy on the skateboard, the defendant Carl Culpable, runs right into Martha and Martha falls backward, cracks her head on the pavement and dies. Jim White is unavailable to testify at trial. The statement is offered by the State during the testimony of Joe in a prosecution for the negligent homicide of Martha. It is offered to show the guy of the skateboard was going really fast. Hearsay?

   Answer Yes, this is hearsay because it is an out-of-court statement offered to prove the matter it asserts--that the guy on the skate board was going too fast. However, it is admissible under the present sense impression exception to the hearsay rule.

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4. Joe is arrested for possession of cocaine, which the prosecution asserts was contained in the "salt" shaker on Joe's kitchen table. The prosecutor offers as evidence a lab report stating, "The "salt" in the shaker is 90% cocaine." Is the report Hearsay?

   Answer Yes, the report is inadmissible hearsay, because it is an out-of-court statement being offered to prove that the "salt" is cocaine—Remember a statement need not be spoken to be hearsay; a document offered to prove the truth of an assertion in its contents can also be hearsay. The "statement" here is the lab report's sentence, "the 'salt' in the salt shaker is 90% cocaine." Since the report is being offered to show that the 'salt' was cocaine, it is hearsay.

5. Carla enters Jill's living room and says, "I am marrying Jack." Jack has been Jill's boyfriend for five years. Jill takes a paper weight and smashes it on Carla's head, killing her. At Jill's trial for murder, Carla's statement is offered by Jill's attorney to show that the killing was provoked. Hearsay?

   Answer No, this is not hearsay. It is an out of court statement, but it is not being offered to prove the truth of what it asserts, that Carla was marrying Jack, but that Jill was provoked by Carla—In other words, it is being offered to show its effect on the listener.

6. The little pig runs away and the fox eats him. At the fox's murder trial, the Mad Hatter, a witness, testifies; "When they were searching for the "little pig", Alice told me that the fox said he'd eaten the little pig." The statement is offered by the prosecution to prove that fox ate the little pig. Is this admissible or is it hearsay?

   Answer It is "multiple hearsay." It is an out-of-court declaration which quotes another out-of-court declaration. The main out-of-court declarant is Alice whose statement is offered to show that fox ate the little pig. Even though the statement of fox to Alice may fit into an exception, admission of a party opponent, it doesn't matter. For it to have been admissible, both out-of-court statements must have fit into an exception.

7. The defendant, a policeman, is accused of attempting to kill his wife by shooting her with a Nevermiss 1000 revolver from a distance of 1/8th of a mile. The defendant testifies that the shot was an accident, and that the Nevermiss is not accurate at more than 1/16th of a mile. The prosecution calls the defendant's former classmate from the police academy, who testifies, "In weaponery class, which I and the defendant attended, the instructor told us that the Nevermiss was accurate up to ¼th of a mile." Is this hearsay?

   Answer This is not hearsay because it is being offered to show that the defendant actually believed that the revolver would be accurate, not to show that the revolver actually was accurate at the 1/8th of a mile range.

8. Joe is on trial for larceny for stealing a stereo. Joe defends himself on the grounds that he did not realize that the stereo was not his stereo. Alice, his neighbor, testifies: "He told me the day afterwards, 'I took the wrong stereo, I can't believe it. I thought it was my stereo.'" The statement is offered to show Joe's intent at the time he took the stereo. Is this statement Hearsay?

   Answer This is inadmissible hearsay. It is offered to prove the matter that it asserts, which is that Joe at the moment of taking the stereo had an intent to take his own property.

9. Same scenario as above except that Alice testifies , "just before Joe took the stereo, Joe told me, "I'm taking this stereo because it's mine'" Is this Hearsay? Is this admissible?

   Answer This is hearsay, but it is admissible under the "then existing state of mind" exception to the hearsay rule and would be admissible to show Joe's lack of intent to deprive another of his property.

10. Tweedledum and Tweedledee are sitting on their front porch one day when they see Christopher Robin zoom buy in his beat up BMW and run through the stop sign at the end of the street and hit the side of Allyson Legworth's new Porsche. Tweedledum observes calmly, and comments, "there goes Christopher, watching the girls instead of the road again." At a subsequent trial, Tweedledum's comment is offered into evidence to prove that Christopher was not paying attention to the road. Is this an admissible statement? Is it hearsay?

    Answer It is hearsay, an out-of-court statement offered to prove its truth, which is that Christopher was not watching the road. It is admissible under the present sense impression exception.

B. Relevance/ Prior Bad Acts and Character

1. John is injured when he is hit by Dan Defendant's car. In a prosecution for negligent homicide, the prosecution offers testimony by Wanda Witness that she saw Dan Defendant driving at a speed of about 55 miles per hour. Is Wanda's testimony relevant?

   Answer Yes, it is relevant because Wanda's testimony makes it more likely than not that Dan Defendant was traveling at 55 miles per hour.

2. Same scenario as above except testimony is offered by Wanda Witness that she saw Dan Defendant going twenty miles over the speed limit two months prior to the accident?

   Answer No, it is not relevant because the alleged speeding took place on a different day and had nothing to do with the accident. This testimony will not make the fact that Dan Defendant was going 55 miles per hour the day of the accident more or less probable.

3. In a prosecution for larceny, the prosecution asks the defendant's character witness on cross-examination, "Isn't it true that you do not have custody of your children?" Is the testimony that this question illicits relevant?

   Answer No, this question would not illicit any testimony that would make an issue in the larceny case more or less likely. Whether or not a defense witness has custody of their children is completely irrelevant to this criminal prosecution

4. In a prosecution for Driving Under the Influence, the prosecutor attempts to offer evidence that the defendant had been convicted of Driving Under the Influence. Is this evidence relevant?

   Answer Although this evidence is probative, it is too prejudicial. There is too much danger that the defendant might be convicted not for the actual crime at issue but because he has committed this crime in the past. The danger of unfair prejudice outweighs the probative value of this prior conviction, and the evidence is not relevant. This violates the rule against admission of prior bad acts.

5. Gary Goodegg is charged with selling alcohol to minors. At trial, the prosecutor seeks to open his case by introducing testimony form Gary's neighbors that he is the neighborhood drunk who makes moonshine in his basement. Is this testimony relevant? Is it admissible?

   Answer This evidence is not relevant. The fact that Gary may be the neighborhood drunk does not make any issue in the case more or less probable. Also, this is inadmissible character evidence, because there is every indication that this evidence being introduced solely to suggest that Gary is a no account drunk and is more likely to be guilty of selling alcohol to minors than if he wasn't the local drunk.

6. Bonnie Bluebonnet is charged with car theft. The prosecutor offers evidence that, two weeks before the theft, Bonnie had escaped form a jail 80 miles away. Is this relevant?

   Answer The evidence of the jail escape is relevant to show motive for stealing the car and that she was more likely than not to have stolen the car than if she had motive to do so. Although prior bad acts are generally irrelevant and inadmissible, if they are offered to show knowledge, motive, intent, preparation, identity, opportunity and plan or absence of misstate or accident.

7. The defendant, a short Asian man with long dark hair, is charged with robbing a bank. The prosecution offers a surveillance tape of the robbery, which shows that the robber is short with long dark hair but which does not show enough detail to demonstrate that the robber is or is not the defendant. Is the tape relevant?

   Answer The tape is relevant and admissibl , because it tends to show that the robber was a short man with long dark hair and this fact makes it more likely than not that the robber is the defendant than would be the case if the tape was not in evidence.

8. In a criminal prosecution for assault and battery, the prosecution seeks to admit the testimony of a witness, who did not see the assault and battery, that one week later he saw the victim holding his jaw and crying from the apparent agony of his injury. Is this relevant?

   Answer No, this is not relevant. It is not evidence that would make any issue regarding the guilt of the defendant, whether or not the defendant committed an assault and battery more or less likely. The testimony is also to inflammatory as likely to unfairly arouse an emotional response from the trier of fact.

9. Dirk Digger is charged with murdering Viola Victim. The prosecutions first piece of evidence is that Dirk was the sole beneficiary of an insurance policy on Viola's life. Is this evidence relevant?

   Answer Yes, it is relevant evidence because it is of probative value. It could be concluded that someone who stands to gain financially from another person's death is at least somewhat more likely to murder that person than someone with nothing to gain.

10. The defendant is charged with fraud because he swindled an elderly widow out of her retirement money. The prosecutor wants to show that the defendant owed money to other people and always failed pay these people back even when he had money to do so. Is this evidence relevant to show that the defendant committed the crime at issue?

    Answer This is improper evidence of other bad acts that is obviously being offered to show that the defendant is a bad character who has the propensity to do bad things. This is highly prejudicial evidence and is not relevant to show that it was more or less likely that the defendant committed fraud. If the defendant took the stand, however, at the court's discretion, this information might be used in the cross-examination of the defendant because it is a prior bad act that is "probative of the truthfulness or untruthfulness" of the defendant.

12-30-97

OKLAHOMA HIGH SCHOOL MOCK TRIAL PROGRAM

GLOSSARY OF LEGAL TERMS

ACQUIT	To find a criminal defendant not guilty of the charges against him or her.
ACTION	A dispute taken to court for resolution. The terms "case, suit and lawsuit" are synonymous with action.
ADJUDICATE	To decide or settle something in a legal setting.
ADVERSARY SYSTEM	Method used in the courts of the United States to settle legal disputes. Each of the trier of the facts (court or jury).
AFFIDAVIT	A voluntary statement or declaration of facts which has been written down and confirmed under oath.
ALLEGATION	An assertion, declaration or statement which is made in a pleading by one of the parties to the action and tells what that party intends to prove.
ANSWER	Written response in a civil case. In it the defendant admits or denies the allegations of the plaintiff's complaint.
APPEAL	Legal process used to ask a higher court to review a decision.
APPELLANT	The party appealing a judgment or decision.
APPELLATE COURT	A court having jurisdiction (authority) to hear appeals.
APPELLEE	The party against whom the appeal is taken.
ARRAIGNMENT	Criminal case proceeding in which the defendant is brought before the trial court to answer criminal charges by entering a plea of guilty or not guilty.
ATTORNEY AT LAW	Individual who is admitted to the bar and thus may represent clients in legal proceedings. Attorneys are called officers of the court because they have a dual responsibility to protect the integrity of the legal system while simultaneously pursuing their clients' claims. An

	attorney who has been admitted to the bar in one state is entitled to practice in the courts of that state, but that does not entitle him or her to practice in the courts of another state, in a Federal court or in the Supreme Court. In order to do so, he or she must qualify and be sworn in separately.
ATTORNEY OF RECORD	Attorney whose name appears on the permanent records and files of a particular case.
AUTOPSY	The examination of a dead body to determine the cause of death.
BAIL	Monetary sum which can be assessed by a judge to insure that a criminal defendant who is being released prior to trial will, in fact, appear in court on a trial date. Securities posted as bail are returned when court appearances are satisfied.
BAILIFF	Courtroom attendant responsible for keeping order in the courtroom and overseeing the jury.
BURDEN OF PROOF	Responsibility for affirmatively proving the disputed facts in a case.
CASE	Lawsuit, suit or action being resolved through the use of the court system.
CHAMBERS	Private office of the judge.
CIVIL LAW	Generally deals with personal actions and usually involves a contract, collection of a debt or compensation for personal injury or property loss.
CLOSING ARGUMENT	Final statement given by an attorney for each party which summarizes each party's position on the guilt or innocence of the defendant. Facts and evidence presented during the trial can be reviewed so that inferences may be drawn from them. The ultimate purpose is to persuade those addressed to render a verdict in favor of the client represented.
COMPLAINT	The first pleading in a civil case filed by the plaintiff. It alleges the material facts and legal theories to support the plaintiff's claim against the defendant. (Called a Petition in State Court.)
CONVICTION	A finding by the judge or jury that a person charged with a criminal offense is guilty beyond a reasonable doubt of committing the crime charged.

CORONER	An official whose responsibilities include the performance of designated functions, the most important of which is the investigation of the cause of any violent or suspicious death that takes place within the geographical boundaries of his or her authority.
COUNSEL	An attorney or lawyer. The giving of advice and guidance concerning a legal matter.
COURT	Judicial tribunal established to administer justice
CRIME	An act considered dangerous to the general public and contrary to the good of a community that is forbidden by law and punishable by fine, imprisonment or death.
CRIMINAL ACTION	The procedure by which a person accused of committing a crime is charged, brought to trial and judged. The main part of a criminal action is the trial in which the innocence or guilt of the accused is determined. If the defendant is not found guilty, he or she will be acquitted of charges. If the defendant is found to be guilty, a suitable punishment, such as a fine, imprisonment or even a death sentence will be imposed depending upon the punishment provided in the statute under which he or she was prosecuted.
CRIMINAL LAW	A body of rules and statutes that defines conduct prohibited by the government because it threatens and harms public safety and welfare and that establishes punishment to be imposed for the commission of such acts.
CROSS EXAMINATION	The questioning of a witness by opposing counsel. The scope of cross examination is generally restricted to matters covered during direct examination. However, for the Mock Trial program, scope of cross-examination is not limited.
DAMAGES	Monetary compensation claimed by a person who has suffered a loss or injury to his/her person, property or rights as a result of the negligence or unlawful conduct of another.
DEFAULT	Failure of the defendant to file an answer or appear in a case within a certain period of time. This will usually result in a default judgment against the defendant.
DEFENDANT	The person or party accused of a crime or sued in a civil case who is standing trial.
DEMURRER	A plea to dismiss a lawsuit on the grounds that although the opposition's statements may be true, they are insufficient to sustain the claim.

DIRECT EXAMINATION	Questioning of a witness by the party who calls the witness.
DUE PROCESS OF LAW	The regular course of administration through the courts of justice under the protection of the law and Constitution so that every person can have a fair and impartial trial or hearing.
EVIDENCE	A fact presented in court through the testimony of a witness, an object or written documents.
EXHIBIT	A document or object which is offered into evidence during a trial or hearing.
FEDERAL RULES OF EVIDENCE	A collection of principles that govern the admissibility of facts and testimony to establish or disprove an issue in civil and criminal lawsuits Brought in U.S. courts. The Federal Rules of Evidence are the model followed by states in the promulgation of their rules of evidence.
FELONY	A major crime that is punishable by death or imprisonment for more than one year.
INDICTMENT	A formal written accusation by a grand jury charging that a person or business committed a specific crime.
INFORMATION	A formal written accusation filed by a public officer such as a prosecuting attorney charging that a person or business committed a specific crime.
INJUNCTION	A writ or order by a court which requires a party to refrain from doing a particular thing or commanding that the party perform a particular act.
INVOKE THE RULE	A rule which prevents witnesses from watching other witnesses as they testify.
JUDGMENT N.O.V.	(Judgment non obstante veredicto . . . Not withstanding the verdict.) In a broad sense it is a judgment rendered in favor of one party not withstanding the finding of a verdict in favor of the other party.
JUDGE	Official who directs the trial, decides what laws might apply to the case and rules on points of law.
JUDGMENT	The official decision by a court regarding the rights and claims of the parties to a civil or criminal lawsuit.
JURISDICTION	The legal authority of a court to hear and decide cases, the exercise of judicial power within certain geographic boundaries.

JURY (GRAND)	A group of persons who inquire into and investigate accusations in criminal cases, hears evidence and meet in secret to decide whether to issue indictments.
JURY (PETIT)	The group of persons called to decide the facts and render a verdict at the trial of a civil or criminal case.
JURY TRIAL	Under the Sixth Amendment to the U.S. Constitution, a person is entitled to trial by jury. This right applies to the states by virtue of the Fourteenth Amendment. The right to trial by jury applies only to crimes in which there is a possibility of imprisonment as punishment.
LAW	Provisions which regulate the conduct of society, primarily generated by the legislature through statutes and sometimes by court decisions.
LITIGANT	One of the parties involved in a legal action.
LITIGATION	Process of settling a dispute through the legal system.
MISDEMEANOR	A classification of offenses which are less serious than felonies. A misdemeanor is punishable by a fine or imprisonment other than in a penitentiary for a period of less than a year. Under federal law, and most state laws, any offense other than a felony is classified as a misdemeanor.
MOTION IN LIMINE	A motion presented to the judge before the trial begins requesting the court to exclude or limit evidence at trial.
OATH	A pledge, affirmation or declaration to provide true information. For an oath to be legally effective, it must be administered by a public official. A spoken oath is generally sufficient; however, a written and signed oath can be required by law.
OBJECTION	A formal attestation or declaration of disapproval concerning a specific point of law or procedure during the course of a trial.
OPENING STATEMENT	Beginning statement given by an attorney for each party which previews what each attorney expects to happen in the trial.
OPINION	Written statement issued to report the decision of an appellate court.
PARTIES	Persons, partnerships, corporations, businesses or governmental organizations involved in legal proceedings--litigants.
PLAINTIFF	In a civil action, the party who files the lawsuit; in a criminal case, the State of Oklahoma is the plaintiff (prosecution).

PLEA	Response of a defendant to the criminal charges; the plea will usually be "guilty" or "not guilty."
PLEADINGS	Written documents stating the allegations and claims of the opposing parties in a legal dispute.
PROSECUTION	In a criminal case, the State of Oklahoma is the prosecution.
PUBLIC TRIAL	An accused has the constitutional right to a public trial to guarantee that a defendant will be treated fairly.
RECROSS EXAMINATION	The additional questioning of a witness by the opposing party, that is performed after redirect examination.
REDIRECT EXAMINATION	The additional questioning of a witness by the party who calls the witness and which is performed after cross-examination.
REMAND	To send back, an appellate court may remand a case to the trial court for retrial or other action.
REVERSE	Decision of an appellate court to change, in whole or in part, the decision of a lower court.
SENTENCE	Punishment imposed by the court in accordance with the range of sentences outlined by statute.
SESSION	One of those periods in a court term when a judge is actually hearing cases. A regular term is one called for by law, and a special term may be called by a judge.
SPEEDY TRIAL	The right of an accused person to a speedy trial is recognized under the common law. It is a fundamental right guaranteed by U.S. Constitution and statutory provisions to protect against arbitrary and oppressive delays. These delays can adversely affect the defendant's position due to unavailability or unreliability of witnesses or evidence supporting his or her claims.
STATUTE	Law enacted by the legislature.
SUBPOENA	Legal document issued by the court to order a person to appear as specified and give testimony.
SUMMONS	Legal document issued by the court which directs the sheriff or another officer to notify the named defendant that a complaint has been filed and that he/she is required to appear and answer the complaint on or before the date and time specified.

SUSTAIN	To grant, support or uphold. During a trial when an attorney objects to the introduction of evidence and the judge agrees with the objection, the judge sustains the objection.
TERM	A term is the time during which a court is authorized to hear cases.
TESTIMONY	Oral evidence statement made by a competent witness who has taken an oath to tell the truth which is used to establish some fact or set of facts.
TRANSCRIPT	Official, verbatim record of court proceedings.
TRIAL	Formal presentation of facts to a court or jury in order to reach a legal resolution.
VERDICT	Formal decision of the court.
VOIR DIRE	The preliminary examination which an attorney may make of a witness where the competency of the witness is objected to.
WITNESS	Individual who gives testimony regarding what he/she has seen, heard or otherwise observed.
WITNESS EXAMINATION	A general term which refers to the questioning of the witnesses for both parties.
WRONGFUL DEATH	The taking of the life of an individual resulting from the willful or negligent act of another person or persons.

ADDITIONAL TERMS

GLOSSARY OF LEGAL TERMS TEST

Refer to and study the Glossary of Legal Terms in your Mock Trial materials.
(Developed and shared by Karen Purdy, Mock Trial Teacher Coach, Idabel High School)

TEST 1
acquit
action
adjudicate
adversary system
affidavit
allegation
answer
appeal
appellant
appellate court
appellee

TEST 2
arraignment
attorney at law
attorney of record
autopsy
bail
bailiff
burden of proof
case
chambers
civil law
closing argument

TEST 3
complaint
conviction
coroner
counsel
court
crime
criminal action
criminal law
cross examination
damages
default

TEST 4
defendant
demurrer
direct examination
due process of law
evidence
exhibit
Federal Rules of Evidence
felony
indictment
information
injunction

TEST 5
invoke the rule
judgment N.O.V.
judge
judgment
jurisdiction
jury (grand)
jury (petit)
jury trial
law
litigant
litigation

TEST 6
misdemeanor
motion in limine
oath
objection
opening statement
opinion\opinion
parties
plaintiff
plea
pleadings
prosecution

TEST 7
public trial
recross examination
redirect examination
remand
reverse
sentence
session
speedy trial
statute
subpoena
summons

TEST 8
sustain
term
testimony
transcript
trial
verdict
voir dire
witness
witness examination
wrongful death

MOCK TRIAL VOCABULARY TEST 1 Name_____

Date_____ Period_____

Directions: In the space provided, write the letter which represents the definition that best matches each numbered term.

_____ 1. acquit

_____ 2. action

_____ 3. adjudicate

_____ 4. adversary system

_____ 5. affidavit

_____ 6. allegation

_____ 7. answer

_____ 8. appeal

_____ 9. appellant

_____10. appellate court

_____11. appellee

++

A. To find a criminal defendant not guilty of the charges against him or her.

B. To decide or settle something in a legal setting.

C. The party against whom the appeal is taken.

D. The party appealing a judgment or decision.

E. A dispute taken to court for resolution. The terms "case, suit and lawsuit" are synonymous.

F. Method used in the courts of the U.S. to settle legal disputes.

G. A court having jurisdiction (authority) o hear appeals.

H. Legal process used to ask a higher court to review a decision.

I. A voluntary statement or declaration of facts which has been written down and confirmed under oath.

J. Written response in a civil case. In it the defendant admits or denies the allegations of the plaintiff's complaint.

K. An assertion, declaration or statement which is made in a pleading by one of the parties to the action and tells what that party intends to prove.

MOCK TRIAL VOCABULARY TEST 2 Name_____

Date_____ Period_____

Directions: In the space provided, write the letter which represents the definition that best matches each numbered term.

_____ 1. arraignment

_____ 2. attorney at law

_____ 3. attorney of record

_____ 4. autopsy

_____ 5. bail

_____ 6. bailiff

_____ 7. burden of proof

_____ 8. case

_____ 9. chambers

_____ 10. civil law

_____ 11. closing argument

++

A. Monetary sum which can be assessed by a judge to insure that a criminal defendant who is being released prior to trial will, in fact, appear in court on a trial date.

B. Responsibility for affirmatively proving the disputed facts in a case.

C. Individual who is admitted to the bar and thus may represent clients in legal proceedings.

D. Generally deals with personal actions and usually involves a contract, collection of a debt or compensation for personal injury or property loss.

E. Criminal case proceeding in which the defendant is brought before the trial court to answer criminal charges by entering a plea of guilty or not guilty.

F. Attorney whose name appears on the permanent records and files of a particular case.

G. Final statement given by an attorney for each party which summarizes each party's position on the guilt or innocence of the defendant.

H. Lawsuit, suit or action being resolved through the use of the court system.

I. The examination of a dead body to determine the cause of death.

J. Courtroom attendant responsible for keeping order in the courtroom and overseeing the jury.

K. Private office of the judge.

MOCK TRIAL VOCABULARY TEST 3 Name_____

Date_____ Period_____

Directions: In the space provided, write the letter which represents the definition that best matches each numbered term.

_____ 1. complaint

_____ 2. conviction

_____ 3. coroner

_____ 4. counsel

_____ 5. court

_____ 6. crime

_____ 7. criminal action

_____ 8. criminal law

_____ 9. cross examination

_____10. damages

_____11. default

++

A. Monetary compensation claimed by a person who has suffered a loss or injury to his/her person, property or rights as a result of the negligence or unlawful conduct of another.

B. A finding by the judge or jury that a person charged with a criminal offense is guilty beyond a reasonable doubt of committing the crime charged.

C. The first pleading in a civil case filed by the plaintiff. It alleges the material facts and legal theories to support the plaintiff's claim against the defendant.

D. The procedure by which a person accused of committing a crime is charged, brought to trial and judged.

E. Failure of the defendant to file an answer or appear in a case within a certain period of time.

F. An attorney or lawyer. The giving of advice and guidance concerning a legal matter.

G. The questioning of a witness by opposing counsel.

H. An official whose responsibilities include the investigation of the cause of any violent or suspicious death that takes place within the geographical boundaries of his/her authority.

I. Judicial tribunal established to administer justice.

J. An act considered dangerous to the general public and contrary to the good of a community that is forbidden by law and punishable by fine, imprisonment or death.

K. A body of rules and statutes that defines conduct prohibited by the government because it threatens and harms public safety and welfare and that establishes punishment to be imposed for the commission of such acts.

MOCK TRIAL VOCABULARY TEST 4 Name_____

Date_____ Period_____

Directions: In the space provided, write the letter which represents the definition that best matches each numbered term.

_____ 1. defendant

_____ 2. demurrer

_____ 3. direct examination

_____ 4. due process of law

_____ 5. evidence

_____ 6. exhibit

_____ 7. Federal Rules of Evidence

_____ 8. felony

_____ 9. indictment

_____10. information

_____11. injunction

++

A. The person or party accused of a crime or sued in a civil case who is standing trial.

B. A document or object which is offered into evidence during a trial or hearing.

C. A collection of principles that govern the admissibility of facts and testimony to establish or disprove an issue in civil and criminal lawsuits brought in U.S. courts.

D. A writ or order by a court which requires a party to refrain from doing a particular thing or commanding that the party perform a particular act.

E. A plea to dismiss a lawsuit on the grounds that although the opposition's statements may be true, they are insufficient to sustain the claim.

F. A fact presented in court through the testimony of a witness, an object or written documents.

G. A major crime that is punishable by death or imprisonment for more than one year.

H. A formal written accusation filed by a public officer such as a prosecuting attorney charging that a person or business committed a specific crime.

I. A formal written accusation by a grand jury charging that a person or business committed a specific crime.

J. The regular course of administration through the courts of justice under the protection of the law and Constitution so that every person can have a fair and impartial trial or hearing.

K. Questioning of a witness by the party who calls the witness.

MOCK TRIAL VOCABULARY TEST 5 Name_____

Date_____ Period_____

Directions: In the space provided, write the letter which represents the definition that best matches each numbered term.

_____ 1. invoke the rule

_____ 2. judgment N.O.V.

_____ 3. judge

_____ 4. judgment

_____ 5. jurisdiction

_____ 6. jury (grand)

_____ 7. jury (petit)

_____ 8. jury trial

_____ 9. law

_____ 10. litigant

_____ 11. litigation

++

A. Provisions which regulate the conduct of society, primarily generated by the legislature through statutes and sometimes by court decisions.

B. Process of settling a dispute through the legal system.

C. The group of persons called to decide the facts and render a verdict at the trial of a civil or criminal case.

D. One of the parties involved in a legal action.

E. The legal authority of a court to hear and decide cases; the exercise of judicial power within certain geographic boundaries.

F. Guaranteed under the Sixth Amendment to the U.S. Constitution, applies only to crimes in which there is a possibility of imprisonment as punishment.

G. A rule which prevents witnesses from watching other witnesses as they testify.

H. A judgment rendered in favor of one party not withstanding the finding of a verdict in favor of the other party.

I. The official decision by a court regarding the rights and claims of the parties to a civil or criminal lawsuit.

J. Official who directs the trial, decides what laws might apply to the case and rules on points of law.

K. A group of persons who inquire into and investigate accusations in criminal cases, hears evidence and meets in secret to decide whether to issue indictments.

MOCK TRIAL VOCABULARY TEST 6 Name_____

Date_____ Period_____

Directions: In the space provided, write the letter which represents the definition that best matches each numbered term.

_____ 1. misdemeanor

_____ 2. motion in limine

_____ 3. oath

_____ 4. objection

_____ 5. opening statement

_____ 6. opinion

_____ 7. parties

_____ 8. plaintiff

_____ 9. plea

_____ 10. pleadings

_____ 11. prosecution

++

A. Written documents stating the allegations and claims of the opposing parties in a legal dispute.

B. A classification of offenses which are less serious than felonies. It is punishable by a fine or imprisonment other than a penitentiary for a period of less than a year.

C. Presented to the judge before the trial begins requesting the court to exclude or limit evidence at trial.

D. In a criminal case, the State of Oklahoma.

E. A formal attestation or declaration of disapproval concerning a specific point of law or procedure during the course of a trial.

F. Beginning speech given by an attorney for each party which previews what each attorney expects to happen in the trial.

G. A pledge, affirmation or declaration to provide true information. It must be administered by a public official.

H. Response of a defendant to the criminal charges; it will usually be "guilty" or "not guilty".

I. In a civil action, the party who files the lawsuit.

J. Written statement issued to report the decision of an appellate court.

K. Persons, partnerships, corporations, businesses or governmental organizations involved in legal proceedings—litigants.

MOCK TRIAL VOCABULARY TEST 7 Name_____

Date_____ Period_____

Directions: In the space provided, write the letter which represents the definition that best matches each numbered term.

_____ 1. public trial

_____ 2. recross examination

_____ 3. redirect examination

_____ 4. remand

_____ 5. reverse

_____ 6. sentence

_____ 7. session

_____ 8. speedy trial

_____ 9. statute

_____ 10. subpoena

_____ 11. summons

++

A. Legal document issued by the court which directs the sheriff or another officer to notify the named defendant that a complaint has been filed and that he/she is required to appear and answer the complaint on or before the date and time specified.

B. Law enacted by the legislature.

C. An accused has the constitutional right to a public trial to guarantee that a defendant will be treated fairly.

D. Punishment imposed by the court in accordance with the range of sentences outlined by statute.

E. The additional questioning of a witness by the opposing party, that is performed after redirect examination.

F. Legal document issued by the court to order a person to appear as specified and give testimony.

G. To send back, an appellate court may remand a case to the trial court for retrial or other action.

H. The right of an accused person to a speedy trial is recognized under the common law. It is a fundamental right guaranteed by U.S. Constitution and statutory provisions to protect against arbitrary and oppressive delays.

I. The additional questioning of a witness by the party who calls the witness and which is performed after cross-examination.

J. Decision of an appellate court to change, in whole or in part, the decision of a lower court.

K. Decision of an appellate court to change, in whole or in part, the decision of a lower court.

MOCK TRIAL VOCABULARY TEST 8 Name_____

Date_____ Period_____

Directions: In the space provided, write the letter which represents the definition that best matches each numbered term.

_____ 1. sustain

_____ 2. term

_____ 3. testimony

_____ 4. transcript

_____ 5. trial

_____ 6. verdict

_____ 7. voir dire

_____ 8. witness

_____ 9. witness examination

_____ 10. wrongful death

A. Formal presentation of facts to a court or jury in order to reach a legal resolution.

B. Individual who gives testimony regarding what he/she has seen, heard or otherwise observed.

C. To grant, support or uphold. During a trial when an attorney objects to the introduction of evidence and the judge agrees with the objection, the judge sustains the objection.

D. Official, verbatim record of court proceedings.

E. Formal decision of the court.

F. The taking of the life of an individual resulting from the willful or negligent act of another person or persons.

G. A term is the time during which a court is authorized to hear cases.

H. The preliminary examination which an attorney may make of a witness where the competency of the witness is objected to.

I. Oral evidence statement made by a competent witness who has taken an oath to tell the truth which is used to establish some fact or set of facts.

J. A general term which refers to the questioning of the witnesses for both parties.

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